

# Doing business in Poland



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# Doing business in Poland

A guide to doing business  
in Poland

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# Preface

The aim of this publication is, therefore, to familiarise potential investors with the basics of the Polish business environment, and to facilitate informed decision-making by providing pertinent information. Consequently, it is hoped that investors will be better placed to assess investment opportunities and weight up the potential benefits against the potential risks. Each of the eight chapters in *Doing Business in Poland* offers an authoritative summary of one key area of the business environment. These areas are: general business climate and investment incentives, company law, real estate, taxation, employment regulations, competition law, capital markets, accounting and auditing. The present publication is intended as a guide for investors with limited knowledge of the Polish economy. While the information it contains was to the best of our knowledge correct at the time of writing, the rapid pace of change in Poland means that laws and regulations are unlikely to remain static. We would therefore urge readers to treat this publication as a general overview and to seek specific advice before any investment decisions are taken. *Doing Business in Poland* is written by professionals from Ernst & Young in co-operation with professionals from Domański Zakrzewski Palinka in legal matters. The authors are all leading specialists in their field, with a proven track-record in providing expert advice to domestic and foreign clients about all aspects of the Polish economy.

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# 1. Business climate

## 1.1. Market overview and key drivers

Since the collapse of communism in 1989, Poland has made dramatic progress moving from a centrally planned to a market-oriented economy. Trade liberalisation, economic restructuring, privatisation, capital inflows, and the gradual adaptation of legal and administrative standards to market-oriented practices have improved economic structures dramatically. In the mid-to late-1990s the Polish economy grew rapidly. After a slowdown, due mainly to the global economic conditions, Poland has regained the pace of growth that it achieved in the second half of the 1990s.

On 1 May 2004, Poland joined the European Union and thus became a member of the vast European single market where goods, services, capital and labour move as freely as within one country. The accession to the EU crowned years of preparations and reforms.

Polish economy is developing much faster than the Euro zone and higher than the average of all EU members. Poland's growth has been driven to a significant extent by export growth, industrial production and investments. Employment is also slowly increasing<sup>1</sup>.

### Poland: Macroeconomic Data 2006/2007

Size (sq. km)	312,685	
Population (m)	38.6	
	2006	2007
Real GDP Growth Rate (%)	5.8	6.6
Unemployment Rate (%)	15.9	11.5
Inflation (%)	1.0	2.5
Value of Polish export (billion €)	88.0	101

Source: Central Statistical Office (GUS), National Bank of Poland, Economist Intelligence Unit

Poland's EU membership creates new opportunities for investors planning to invest in the country:

- ▶ access to the single market of 492.8 m customers (EU-27);

<sup>1</sup> The Polish Information and Foreign Investment Agency (PAIILZ S.A.).

- ▶ the single largest beneficiary of EU aid among the acceding countries;
- ▶ Polish law will be further harmonised - the legal environment fully compatible with Western standards;
- ▶ EU membership guarantees stability and a dynamic development.

The examples of Ireland and Spain show how membership contributes to a country's rapid economic development and bring about massive investment inflows. Investors from outside the EU can also benefit from Poland's accession to the EU - by investing in Poland they get access not only to the Polish but to the EU market while taking advantage of lower production costs than in the "old" EU countries.

## 1.2. Foreign direct investment

As a member of the EU, NATO and OECD, Poland is a trustworthy and reliable partner for international business. A high inflow of foreign direct capital is a direct evidence of a country's attractiveness to foreign investors. Seventeen years after the successful introduction of economic reforms, Poland is the leader in Central Europe in terms of foreign direct investment. According to the National Bank of Poland (NBP), the inflow of foreign direct investments in 2007 amounted to € 12.8 billion. Investors' motivation in undertaking cross-border direct investment is typically either to gain access to new and growing markets, or to reduce costs. Poland scores on both counts, representing a dynamic marketplace - the largest market among the new EU members, as well as a lower cost base than the "old" EU countries. Given its strategic geographical location, the country may also play a crucial role in EU trade as a gateway to markets further east, particularly Russia and Ukraine.

Other reasons for investors to enter Poland are:

- ▶ costs (incl. labour costs and costs of living) and the possibility of decreasing them. Costs of conducting business in Poland are significantly lower than in Western Europe<sup>2</sup>;
- ▶ size of Polish market;
- ▶ human capital - availability of labour, qualified workforce;
- ▶ economic growth prospects: solid macroeconomic foundations and monetary policy set by an independent Central Bank;
- ▶ political and economic environment favourable to foreign investment, ongoing corporate restructuring, deregulation and further privatisation; beneficial tax rates - Corporate Income Tax rate of 19% of taxable base; low inflation and falling interest

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<sup>2</sup> According to a survey commissioned by PAIIZ in 2005.

rates; strong orientation towards joining the Euro zone; mature financial system and stable banking sector.

#### The biggest investors in Poland in alphabetical order

Investor	Country of origin	Business Activity
Citigroup	USA	Banking
Fiat	Italy	Motor vehicles, insurance, banking
France Telecom	France	Telecom
KBC Bank	Belgium	Banking

## 1.3. Investment incentives in Poland

The investment incentive system in Poland is compliant with European Community law requirements and is composed of three main types of public aid: regional, horizontal and sectoral aid. The amount of public aid that may be awarded to an investment cannot exceed certain levels set separately for each category of the state aid.

### Regional aid

#### General rules<sup>3</sup>

Regional aid is aimed at supporting initial investments, which are generally defined as investments related to setting up a new enterprise, extension of an existing enterprise, diversification of the output into new, additional products, or a fundamental change in the overall production process of an existing enterprise<sup>4</sup>. One of the conditions to benefit from this kind of aid is the maintenance of the investment and/or new jobs for a minimum of 5 years<sup>5</sup> (in order to prevent relocation of companies after the aid is granted).

#### Aid intensity

Generally, the regional aid for initial investments can be awarded up to the maximum aid intensity, understood as a percentage of costs eligible for funding, i.e. investment or job creation costs.

<sup>3</sup> The information is based on the Guidelines on National Regional Aid for 2007-2013, Commission Regulation No. 800/2008 (the so called General block exemption Regulation), the Decision of the European Commission on Regional Aid Map 2007-2013 for Poland (State Aid N 531/06 - Poland) and the Council of Ministers Regulation of 13 October 2006 on the regional aid map for Poland.

<sup>4</sup> Acquisition of assets directly linked to a company may also be regarded as initial investment provided the company has closed or would have closed had it not been purchased, and is bought by an independent investor.

<sup>5</sup> 3 years in the case of Small and Medium Enterprises.

## Maximum aid intensity levels in Poland\*

Region	Aid intensity
Voivodships: Lubelskie, Podkarpackie, Warmińsko-Mazurskie, Podlaskie, Świętokrzyskie, Opolskie, Małopolskie, Lubuskie, Łódzkie, Kujawsko-Pomorskie	50%
Voivodships: Pomorskie, Zachodniopomorskie, Dolnośląskie, Wielkopolskie, Śląskie	40%
Voivodship: Mazowieckie	- 40% until 31.12.2010 - 30% from 01.01.2011
Warsaw	30%

\* As a rule, the aid intensity levels are higher for Small (by 20 percentage points) and Medium Enterprises (by 10 percentage points). These bonuses, however, do not apply to aid awarded in the transport sector.

For large investment projects, i.e. projects of eligible costs exceeding € 50 m, the aid level is reduced. The available aid amount for a large investment project is calculated according to the formula:

$$\text{maximum aid amount} = R \times (\text{€ } 50 \text{ m} + 0.50 \times B + 0.34 \times C)$$

where:

- R is the maximum aid intensity allocated to a given area;
- B is the eligible expenditure between € 50 m and € 100 m;
- C is the eligible expenditure above € 100 m.

## Methods of calculating available aid

The amount of aid available for an investment project is generally based either on the costs of the investment or the costs of creating new jobs:

- ▶ Investment costs
  - expenditures on land, buildings and plant/machinery;
  - transfer of technology through the acquisition of patent rights, licenses, know-how or unpatented technical knowledge<sup>6</sup>;
  - cost related to acquisition of assets other than land and buildings under financial lease; lease of land and buildings if continued after the anticipated date of the completion of the investment project for at least 5<sup>7</sup> years.

Except in the case of SMEs and takeovers, the assets acquired should be new.

- ▶ Job creation costs

<sup>6</sup> Immaterial assets must be bought from third parties under market conditions and meet several other criteria. Please note that for large companies such costs are eligible only up to 50 % of the total eligible investment expenditure for the project.

<sup>7</sup> 3 years in case of SMEs.

Regional aid may also be calculated by reference to the expected wage costs arising from job creation as a result of an initial investment. Job creation is the net increase in the number of employees directly employed in a company compared with the average over the previous 12 months.

Aid for job creation cannot exceed a percentage - equal to the aid intensity level for a given region - of the two-year labour costs of newly employed workers, comprising the gross costs of employing the workers increased by all obligatory payments related to their employment (e.g. social security contributions) incurred by the company.

### Aid notification

The state aid is supervised by the European Commission (EC). The EU Member States are required to notify to the EC any plan to grant or alter state aid and they are not allowed to grant any aid until it has been authorised by the EC.

# In order to simplify the rules on granting state aid, the EC has adopted the so called general block exemption regulation, which i.a. (when additional criteria are met) exempt certain categories of aid from the notification requirement. In particular, the general block exemption regulation covers the following: regional aid, SME investment and employment aid, aid for environmental protection, aid for research, development and innovation, training aid, etc.

However, there are still other aid schemes which remain subject to the notification obligation. One of them is the regional aid awarded in favour of large investment projects. The EU Member States are required to notify to EC any aid to be awarded to a large investment project if the aid proposed from all sources exceeds the maximum allowable amount of aid that an investment with eligible expenditure of € 100 m can receive under the calculation formula mentioned above. The notification thresholds for different regions are as follows:

Aid intensity	30%	40%	50%
Notification threshold	€ 22.5 m	€ 30 m	€ 37.5 m

### Forms of regional aid

New investments in Poland can mainly be supported by means of i.a.:

- ▶ cash grants from EU Funds;
- ▶ CIT exemption available for companies operating within Special Economic Zones (SEZs);
- ▶ Multi-Annual Support Programme;
- ▶ real estate tax exemptions.

Note: Companies can take advantage of different types of state aid, however, the total support for investment cannot exceed limits calculated as the maximum regional aid intensity multiplied by total investment costs eligible for funding or two-year employment costs created as a result of the new investment. For example, an enterprise may simultaneously benefit from CIT relief within SEZ and cash grants but the total value of all types of regional state aid offered to the investor cannot exceed the maximum available regional aid pool computed for a given investment project.

### Cash grants from EU Funds

In order to receive a cash grant from the EU Funds, an investor must first file a comprehensive grant application, where the investment project is presented in detail. Afterwards, the applications undergo evaluation procedure and the cash grants are given to the best projects under financial covenants concluded between the applicant and the relevant authorities.

In particular, the grant application procedure opens with call for applications announcement, where the deadline for submitting the applications is set. When the applications are filed, they undergo evaluation procedure which is based on a scoring mechanism which is based on a scoring mechanism. The projects are chosen in an open competition (i.e. the best wins the grant). When selected, the relevant institution informs the applicants that they are awarded cash grants and the financial covenants are signed. The covenants stipulate the obligations of the investor as far as the co-financed project is concerned (especially they specify the value and schedule of the investment, the technologies to be applied, the number of new employees, etc.).

The whole assessment procedure takes ca. 3-4 months. An investment to be co-financed from cash grants may only start after the application has been submitted and a written confirmation has been issued that subject to detailed verification the project in principle is eligible to apply for support. The first calls for applications under the 2007-2013 budget have already been concluded. Next calls for application are expected at the end of 2008 or in 2009.

The maximum permissible aid for one investment project is maximum aid intensity for a given region multiplied by investment costs or two-year employment costs of new employees, whichever is the higher. Business activity related to the co-funded investment should be maintained for at least 5 years<sup>8</sup> from the investment completion date. In the case of support for creating new jobs, the newly created jobs (understood as the jobs created within 3 years after completion date) will have to be maintained for at least 5 years<sup>9</sup> from the date of investment completion.

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<sup>8</sup> 3 years in the case of SMEs.

<sup>9</sup> 3 years in the case of SMEs.

## CIT exemption in Special Economic Zones

Special Economic Zones (SEZs) are part of the Polish territory set up for a specific period of time (most until 2020<sup>10</sup>) where companies' operations are governed by specific rules set out in the SEZ Act and further defined in the relevant SEZ regulations.

The incentive offered in SEZ is the CIT exemption available for enterprises operating in SEZs. The maximum permissible aid for one investment project performed within the SEZ equals maximum aid intensity for a given region multiplied by investment costs or two-year employment costs of new employees, whichever is the higher. The so-calculated amount of available CIT exemption can be utilized by the investor till the end of the given SEZ existence in relation to the income generated on the business activity specified in the SEZ permit<sup>11</sup>.

### Location of SEZs in Poland:



<sup>10</sup> According to the government's latest amendments to the SEZ regulations.

<sup>11</sup> Income generated on activities which have not been specified in the permit is taxable under the standard rules.

At present there are 14 SEZs in Poland. Each SEZ consists of several sub-zones which are located in different places, not necessarily adjacent to each other. The overall area of all zones equals nearly 12 000 ha. According to the currently binding SEZ Act, however, the area may be extended up to 20 000 ha.

CIT exemption within SEZs can be granted only on the basis of a permit for running a business in a SEZ, which is issued upon application. In order to obtain a SEZ permit and take advantage of the SEZ incentives:

- ▶ the investment should be worth at least € 100,000 and should operate for a period of at least 5 years<sup>12</sup> (the investment criterion);
- ▶ new jobs must be maintained for at least 5 years<sup>13</sup> (the new jobs criterion).

The SEZ permits specify the conditions levied on the investor. In particular, the value of the planned investment, the intended level of employment, date of commencing the business activity (e.g. production) and deadlines for fulfilling all the obligations are mentioned in the permit. The permit is usually valid until the SEZ ceases to exist.

There is a list of business activities which cannot be performed within the SEZ under the SEZ permit. The construction of the CIT exemption results in the fact that locating the company in the SEZ is beneficial mainly for production companies. However, shared services centres may also be located in the SEZs which makes it a perfect incentive for companies operating in the outsourcing services sector or BPOs (*Business Process Offshoring*).

The SEZ area can be extended to private land where the planned investment is to be located. In order to benefit from this solution investors are obliged to fulfill specific criteria, e.g.: number of new jobs created in relation with the project or the investment value.

In the process of applying for a SEZ permit, the particular SEZ management presents to a potential investor possible locations for industrial facilities and also provides free assistance by i.a. facilitating contacts with local or state authorities in matters such as the purchase of land for investment. At a later stage the SEZ management collects fee for administering the SEZ. It takes minimum 2-3 months to complete all the formal requirements needed to enter the SEZ and obtain a SEZ permit. However, the entire process may take up to 4-5 months, depending on the particular case.

### **Multi-Annual Support Programmes – system of incentives for major investments**

This type of aid has been designed to attract investments of special importance to Poland. Therefore, the Multi-Annual Support Programme (MASP) is designated for large investments, which are considered crucial for the Polish economy. The MASP is financed from the Polish budget.

<sup>12</sup> 3 years in case of SMEs.

<sup>13</sup> 3 years in case of SMEs.

Please note that the information we present below is based on the currently binding rules. However, the MASP support scheme is being revised at the moment and is expected to be modified soon.

In order to apply for support within this aid scheme, investments should be implemented in one of the priority sectors such as automotive, electronic, biotechnology, Shared Services Centre, BPOs, R&D Centres, etc. Also, one of the following conditions has to be met:

- ▶ minimum number of new jobs to be created is 250, or
- ▶ the value of investment is at least at the level of € 40 m.

This aid scheme may combine different types of incentives, e.g. initial investment support, employment grant, preferential land purchase price, CIT exemption in SEZs, real estate tax exemption, assistance in establishing of co-operation between the investor and academic institutions, etc. Also, employment of people in a location where the unemployment rate is higher than the national average enables the investor to apply for a 10% higher amount of support than the base values.

In order to benefit from this aid scheme, investors negotiate the aid package with the Polish Information and Foreign Investment Agency and the Ministry of Economy. The amount of aid to be received depends mostly on the outcome of negotiations.

The process of negotiations usually lasts several months and is finalised in form of an agreement. The granted aid is then notified to the European Commission.

### Employment aid

When new jobs are created within a new investment, the employment aid is considered regional aid and it is awarded under the regional aid rules.

### Sectoral aid

There are industries experiencing specific problems or conditions (the so-called "sensitive sectors"). The sectoral aid rules have been adopted to support those particular industries. At present they include i.a.: coal, shipbuilding, postal services, audiovisual production and broadcasting sectors. Also, specific restrictions have been imposed on aid granted to the steel and synthetic fibers industry.

As far as the motor vehicle industry is concerned, specific rules have been abolished as of 1 January 2007. Currently, companies from the automotive sector can obtain aid according to the rules on regional aid. As a consequence, the automotive sector may apply for public aid under the same regulations as other non-sensitive branches of industry.

## Horizontal aid

Horizontal aid schemes are separate from regional aid. This means that even companies that have used up the maximum available regional aid may benefit from horizontal aid schemes.

## Employment

Employment aid is considered horizontal aid if creation of new jobs is not linked to an initial investment. Employment grant may be obtained only for recruiting unemployed persons. Job creation is understood as a net increase in the number of jobs, compared to the annual average employment level, maintained for at least 3 years<sup>14</sup>.

Employment aid is granted for the following types of projects:

- ▶ creation of jobs;
- ▶ employment of disadvantaged people<sup>15</sup> or disabled people;
- ▶ to cover the additional costs related to employing disabled people.

### Maximum level of support:

The level of support is set in line with an algorithm specific for each case and it is generally linked directly to the average salary.

### Terms and conditions:

As a rule the aid may be obtained throughout the year after filing all the necessary documentation.

### Procedure:

Generally, a company completes an application and submits it to the Poviats Labour Office. Upon a positive decision, the company concludes an agreement with the local authorities. Funding starts from the moment at which selected persons are employed.

For example, investors may apply for reimbursement of expenditures spent on equipping workplaces for the unemployed delivered by the Poviats Labour Office. The aid is granted under an agreement signed with the local authorities.

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<sup>14</sup> 2 years in case of SMEs.

<sup>15</sup> Disadvantaged people:

- ▶ unemployed youths under the age of 25;
- ▶ long-term unemployed, women who have not taken up employment after having a child;
- ▶ unemployed over the age of 50;
- ▶ unemployed without qualifications, professional experience or secondary education;
- ▶ unemployed single adults looking after at least one child under the age of 18;
- ▶ unemployed offenders who have not taken up employment;
- ▶ disabled unemployed.

The agreement stipulates the obligation of the investor to maintain the level of employment and the new jobs for the period of 3 years<sup>16</sup>. It also specifies the amount of aid to be granted - in total it may not exceed 500% of an average monthly salary.

Also, companies employing disabled persons may additionally obtain the aid from the State Fund for the Rehabilitation of the Disabled (*Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych*):

- ▶ for adapting workplaces to needs of disabled persons;
- ▶ exemption from social security contributions;
- ▶ monthly financial support to salaries of disabled persons (amounts depending on the level of a person's disability and a number of employees in a company).

## Training grants

Training aid covers public support for different kinds of training useful for employees. Companies take advantage from training aid by reducing training costs (i.e. the aid covers part of training institution costs).

Training grant may cover both general and specific training. General training is training which provides qualifications which are transferable and useful in other companies or fields of work. Specific training is training which provides qualifications which will be used by an employee at a given position in the supported company and are not (or only to a limited extent) transferable to other companies or fields of work.

### Types of project:

An investor can benefit from subsidised training for employees and managers, e.g. concerning IT use and application, enterprise management, including human resources management, work organization improvements, postgraduate studies for enterprise employees and managerial staff, internships for employees of enterprises in scientific and research institutions, upgrading skills of employees with low qualifications.

### Maximum levels of support<sup>17</sup>:

- ▶ up to 60% of eligible expenditures in case of general training;
- ▶ up to 35% of eligible expenditures in case of specific training;
- ▶ up to 80% and 45% respectively in case of SMEs.

<sup>16</sup> 2 years in case of SMEs.

<sup>17</sup> However, with the introduction of General block exemption Regulation, the aid intensities are about to be changed to:

- up to 60% of eligible expenditures in case of general training,
- up to 25% of eligible expenditures in case of specific training,
- up to 70% and 35% respectively in case of medium sized companies,
- up to 80% and 45% respectively in case of small companies.

### Terms and conditions:

The call for applications for the training projects of enterprises has already been concluded. The next application round is expected in 2009.

## Research & Development

### R&D support within structural funds

According to Community Framework for State Aid for Research and Development and Innovation aid for R&D can be granted for:

- ▶ fundamental research - experimental or theoretical work undertaken primarily to acquire new knowledge, without any direct practical application or use in view;
- ▶ industrial research - planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services;
- ▶ experimental development - acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services.

The aid intensities applicable for R&D support are as follows:

	Small enterprise	Medium enterprise	Large enterprise
Fundamental research	100%	100%	100%
Industrial research	70%	60%	50%
Industrial research subject to: ▶ collaboration between undertakings, or ▶ collaboration of an undertaking with a research organization, or ▶ dissemination of results.	80%	75%	65%
Experimental development	45%	35%	25%
Experimental development subject to: ▶ collaboration between undertakings, or ▶ collaboration of an undertaking with a research organisation.	60%	50%	40%

Costs eligible for funding:

- ▶ project team salaries;
- ▶ instruments and equipment;
- ▶ buildings and land;

- ▶ contractual research, technical knowledge and patents (bought or licensed);
- ▶ additional overheads (e.g. costs of materials, supplies, etc. incurred directly as a result of the research activity).

### R&D centre status

The status of an R&D centre is granted to entities with income generated on sales of goods and products and on financial operations worth at least € 800,000, at least 20% of which is generated on sales of own R&D activity results (in the year prior to the year of filing the application). Apart from that there is a requirement of no outstanding tax and social security liabilities. The above-mentioned conditions must be fulfilled each consecutive year of holding the R&D centre status.

The centres may create the so called "innovativeness funds" - up to 20% of their monthly income can be allocated to the fund and treated as tax deductible costs for CIT purposes. The requirement that must be fulfilled in order to create the fund is that its resources must cover expenses linked with own R&D activity. The R&D centres are eligible for real estate tax exemption to the extent that the assets are used to conduct R&D activity (de minimis aid).

### Research & Development support within European Community Programme - Seventh Framework Programme

The Framework Programmes (FPs) have been the main financial tools through which the European Union supports research and development activities covering almost all scientific disciplines.

The current FP7 has been fully operational as of 1 January 2007 and will expire in 2013.

The proposed Seventh Framework Programme is organised in four programmes corresponding to four basic components of European research:

- ▶ cooperation (support given to whole range of research activities carried out in trans-national cooperation); themes cover:
  - health;
  - food, agriculture and fisheries, biotechnology;
  - information and communication technologies;
  - nanosciences, nanotechnologies, materials and new production technologies;
  - energy;
  - environment (including climate change);
  - transport (including aeronautics);
  - socio-economic sciences and the humanities;
  - space;
  - security;

- ▶ ideas (aimed at enhancing the dynamism, creativity and excellence of European research at the frontier of knowledge in all scientific and technological fields, including engineering, socio-economic sciences and the humanities);
- ▶ people (quantitative and qualitative strengthening of human resources in research and technology in Europe);
- ▶ capacities (objective is to support research infrastructures, research for the benefit of SMEs and the research potential of European regions as well as to stimulate the realisation of the full research potential of the enlarged Union and build an effective and democratic European Knowledge Society).

#### Participants:

Any legally established company, university, research centre, organisation or individual.

## Environmental support within structural funds

Support for environmental protection covers aid for actions designed to remedy or prevent damage to physical surroundings or natural resources or to encourage the efficient use of these resources. Projects have to adjust the existing environmental infrastructure to the requirements of EU environmental protection policy.

Generally, the support can be granted:

- ▶ as regional aid if the environmental protection is connected with new investment (regional aid rules apply), or
- ▶ in form of horizontal aid if the environmental protection results in modernisation and improvement of existing installations (rules for environment protection aid apply).

The aid intensity levels depend on the type of investment as indicated above and scope of actions undertaken.

#### Areas of support:

- ▶ investments concerning i.a.:
- ▶ development of water-sewage infrastructure;
- ▶ improved waste management (eg. waste recycling and utilization);
- ▶ companies' adjustment to environmental protection requirements (eg. by implementing BATs);
- ▶ air protection;
- ▶ environmental friendly energy infrastructure (including energy from renewable sources).

Beneficiaries:  
Enterprises.

Terms and conditions:

First application rounds in the environmental protection area are under procedure. Next calls for application and calls for applications in the renewable energy area are expected in 2009.

## European Economic Area (EEA) Grants Iceland Liechtenstein Norway

EEA grants are two financial aid instruments from three non-EU countries of the EEA: Iceland, Liechtenstein and Norway. These instruments were implemented in Poland on the basis of two agreements signed by the Polish government: the Memorandum of Understanding of the Implementation of the EEA Financial Mechanism and the Memorandum of Understanding of the Implementation of the Norwegian Financial Instrument.

Types of projects:

Support under the EEA Financial Mechanism is envisaged for projects related to one of the six priorities listed below:

- ▶ environmental protection, including human environment, through e.g. reduction of pollution and promotion of renewable sources of energy;
- ▶ promotion of sustainable development through better sources usage and management;
- ▶ protection of the cultural European heritage, including public means of transport and renovation of cities;
- ▶ development of human resources through promotion of the education and training, enhancement of the potential of the administration institutions and public services;
- ▶ health care and children care;
- ▶ scientific research.

Beneficiaries:

All entities from public and private sector and non-governmental organizations, providing they are established in Poland, particularly: governmental entities, regional and local authorities, scientific and research institutions, trade and environmental institutions, social assistance organizations, public-private partnerships, private partnerships and companies acting in public interest.

Maximum rates of support:

Limit of project co-financing is generally 60% of all eligible project costs. In the case of additional support from national or local budget (at least 15%) co-financing may reach the level of 85%.

### Terms and conditions:

- ▶ project has to be realized in public interest;
- ▶ only expenditures incurred after financing is granted may be refunded;
- ▶ in justified cases projects can gain support in advance (maximum 10%);
- ▶ minimum aid amounts to € 250,000.

### Procedure:

Applications for financial aid should be submitted to appropriate Managing Authority (e.g. the Ministry of Health in the case of projects concerning health care; the Ministry of Environment in the case of environmental projects). Only projects approved in national selection procedure will be directed to the EEA countries where the final decision on granting the aid will be made. The financing agreement is signed between the appropriate Managing Authority and beneficiaries. The assessment procedure takes ca. 8 months.





## 2. Establishing a business presence

### 2.1. Overview

The legal concept of “doing business” is best defined under Polish law in the Act on Freedom of Economic Activity (2004), which defines economic activity as “...production, construction, trade, service, the search for, recognition and extraction of natural resources, as well as professional activity pursued for the purpose of obtaining profit and conducted in an organized and continuous manner”. The Act also provides that undertaking and pursuing economic activity shall be free and allowed to every person on equal terms subject to any conditions specified in law.

This definition of “doing business” also applies to foreign investors undertaking economic activity in Poland. However, there are differences between investors from countries that are EU and EFTA members, and those from other countries.

Investors from countries that are EU and EFTA members may conduct economic activity on the same terms as Polish citizens.

Investors from countries that are not EU and EFTA members may conduct economic activity on the same terms as Polish citizens only if they hold permits legalizing their stay in Poland and allowing them to conduct commercial activity. Investors from other countries who do not hold such permits may conduct economic activity through:

- ▶ establishing limited partnerships, limited joint-stock partnerships, limited liability companies and joint-stock companies;
- ▶ purchasing and acquiring shares in such companies.

The following are the main legal forms available for doing business in Poland. All these forms are available to Polish investors and foreign investors based in countries that are EU and EFTA members:

- ▶ joint-stock company (*spółka akcyjna* - S.A.);
- ▶ European Company (Societas Europea) (*Spółka Europejska* - SE);
- ▶ limited liability company (*spółka z ograniczoną odpowiedzialnością* - sp. z o.o.);
- ▶ limited joint-stock partnership (*spółka komandytowo-akcyjna* - S.K.A.);
- ▶ registered partnership (*spółka jawna* - sp.j.);
- ▶ limited partnership (*spółka komandytowa* - sp.k.);
- ▶ professional partnership (*spółka partnerska* - sp.p.);

- ▶ sole proprietorship (*indywidualna działalność gospodarcza*);
- ▶ European Economic Interest Grouping (*Europejskie Zgrupowanie Interesów Gospodarczych - EZIG*);
- ▶ civil law partnership (*spółka cywilna*) - this partnership may not be registered as an individual entrepreneur conducting economic activity. Its participants may be registered as individuals pursuing economic activity jointly. Therefore, such a partnership is not a separate business entity. However, it may be used for joint investment projects or consortia.

Many of the laws relating to doing business are contained in the following acts:

- ▶ Code of Commercial Companies (15 September 2000) - this relates to forms of doing business by companies and partnerships;
- ▶ Council Regulation (EC) No 2157/2001 on the Statute for a European Company (8 October 2001);
- ▶ Council Regulation (EEC) No 2137/85 on the European Economic Interest Grouping (27 July 1985);
- ▶ Act on European Economic Interest Grouping and European Company (4 March 2005);
- ▶ Act on Freedom of Economic Activity (2 July 2004).

Other regulations important for commercial companies include the:

- ▶ Banking Law (29 August 1997);
- ▶ Law on the Commercialisation and Privatisation of State-owned Enterprises (30 August 1996);
- ▶ Insurance Law (22 May 2003);
- ▶ Capital Market Regulation Act (29 July 2005);
- ▶ Act on Public Offer and Terms and Conditions of Introducing Financial Instruments to Organised Trading System and on Public Companies (29 July 2005);
- ▶ Trade in Financial Instruments Act (29 July 2005).

These acts contain provisions concerning banking and insurance activities and public trade in securities.

## 2.2. Companies

All types of companies are available to a foreign investor, provided that the investor:

- ▶ has a permit legalizing his stay in and allowing him to conduct commercial activity in Poland, or
- ▶ originates from a country that is an EU or EFTA member state.

If the above conditions are not met, the investor may establish a limited partnership, limited joint-stock partnership, limited liability company or joint-stock company. Such investors are not subject to further limitations on the form of economic activity they choose to undertake.

## Joint-stock company

A Polish joint-stock company can be established by one or more founding members. A limited liability company with one shareholder cannot be the sole founding member of a joint-stock company. However, the law does not prohibit subsequent operation of a joint-stock company with only one shareholder who also happens to be a joint-stock company with one shareholder.

### Company's formation

The founding members agree upon and sign the Articles of Association of the joint-stock company, supply at least 25% of the initial capital, and make all vital management decisions concerning the company before the company's Management Board and Supervisory Board are elected.

The formation of a joint-stock company involves the following:

- ▶ execution of the Articles of Association by the founding members;
- ▶ making the payments for shares in accordance with the law (see Share capital requirements);
- ▶ establishment of the Management Board and Supervisory Board (see Management);
- ▶ entry of the company into the Register of Entrepreneurs (part of the National Court Register).

The Articles of Association should be concluded in the form of a notarial deed and signed by the founding members. All founding members should present to the notary public documents describing their legal status (i.e. for a foreign corporate shareholder, an excerpt from the appropriate commercial register or a certificate of incorporation that must be usually validated by an apostille clause or in a Polish embassy or consulate together with its sworn translation into Polish).

Registration of the company is performed by the registry court.

The following documentation should be filed with the court:

- ▶ an application for registration signed by all the members of the Management Board;
- ▶ the Articles of Association of the company;
- ▶ notarial deeds on formation of the company and subscription for its shares;

- ▶ a statement of all members of the Management Board that payments for shares provided for by the Articles of Association have been made in accordance with the law;
- ▶ proof of payment for the shares made to bank account of the company in organisation, certified by a bank or brokerage house; if the statutes provide for payment of the share capital with in-kind contributions after the registration of the company, a proper statement by all members of the Management Board must be enclosed;
- ▶ a document evidencing the appointment of members of the company's bodies with a list of their members;
- ▶ a relevant permit or evidence of approval of the statute by a competent administrative authority if such documents are required for the incorporation of the company;
- ▶ specimen signatures of all members of the Management Board.

For the company to become fully operational, the statistical office should be notified, whereupon the company will receive its own statistical identification number (REGON). In addition, the company should apply to the tax office for its taxpayer number (NIP). There is a statutory requirement for a joint-stock company to carry out an annual audit.

### Share capital requirements

The minimum share capital requirement is PLN 500,000. A share must have a value of at least PLN 0.01 (1 grosz). Shares are equal and indivisible. Shares acquired through a contribution in kind should be fully paid up not later than one year after the registration of the company. Shares acquired through a cash contribution should be paid up in 25% prior to the registration of the company. If shares are acquired solely through a contribution in kind, or through a contribution in kind plus a cash contribution, 25% of the nominal share capital should be paid up prior to registration.

If the shares are paid up with a contribution in kind, the founders must prepare a special valuation report to be examined in the course of the registration process by auditors appointed by the registration court.

Preference shares may be issued, awarding, for example, preferential dividend rights (though these are limited), voting privileges (up to two votes per share), or privileges with respect to the distribution of assets in the event of the company's liquidation. A joint-stock company may issue either registered shares or bearer shares. Bearer shares are not subject to any legal restriction on transferability either under the law or under the Articles of Association of a given company. Shares which are not paid up to their full nominal value, or which are allotted in consideration for a contribution in kind, cannot be issued as bearer shares. Registered shares may only be transferred by a contract evidenced by a written statement of the previous shareholder, and delivery of the share certificate.

## Reserve capital

A reserve fund for potential losses must be created through the transfer of 8% of the annual profits of the joint-stock company until the reserve capital amounts to one third of the share capital.

## Management

The formal bodies of a joint-stock company are the Shareholders' Meeting, the Management Board and the Supervisory Board.

## Shareholders' Meeting

The powers of the Shareholders' Meeting comprise:

- ▶ examining and approving the report, balance sheet and profit and loss account for the previous year;
- ▶ the discretion to allocate profit or cover losses, making any decisions on claims for damage caused during the establishment, management or supervision of the company;
- ▶ the discretion to dispose of or lease the company's enterprise or its organised part or establish a limited property right thereon;
- ▶ the discretion to dispose of or acquire real estate, perpetual usufruct of it or its part (unless otherwise stated in the Articles of Association);
- ▶ the discretion to issue convertible bonds or bonds with a pre-emptive right;
- ▶ the discretion to acquire the company's own shares;
- ▶ amending the company's Articles of Association;
- ▶ increasing or decreasing the company's share capital;
- ▶ for a period of two years after the registration of the company, the discretion to acquire property for a price higher than 1/10 of the paid-up share capital from the founding member or a shareholder, for the company (or for the subsidiary), of the founding member or the shareholder of the company.

An absolute majority of votes cast is sufficient for most decisions. However, some resolutions may be adopted only by:

- ▶ unanimity of the shareholders whom they concern (for example, amendments to the Articles of Association increasing the shareholders' preferential dividend rights from the company or reducing individual rights vested in shareholders personally);
- ▶ a qualified majority of three quarters of the votes cast (for example, in respect of amendments to the Articles of Association or a decrease in share capital or in respect of a decision on merging the company).

The Articles of Association may provide for more stringent conditions to adopt these resolutions.

### Management Board

The Supervisory Board elects the Management Board of a joint-stock company unless otherwise provided by the Articles of Association.

The Management Board members' term of office cannot exceed five years.

The Management Board is vested with the exclusive power to represent the company before third parties. This right extends to all judicial and extra-judicial acts of the company, and its limitation cannot have any legal effect on third parties. The Management Board is a collective body, so it makes decisions by resolution.

### Supervisory Board

A joint-stock company must have a Supervisory Board of not fewer than three persons, elected by the Shareholders' Meeting. The Supervisory Board exercises permanent supervision over the activity of the company in all branches of the enterprise. Its particular duties include: examination of the reports of the Management Board and financial statements of the company in respect of their compatibility with the books, documents and the actual state of affairs; examination of the Management Board's motions as to the distribution of profit and losses; as well as submission of an annual written report on the results of the examination to the Shareholders' Meeting.

### Responsibility

The shareholders of a joint-stock company are not personally responsible for the obligations of the company. Management Board members are liable jointly and severally with all their assets for the tax arrears of the company if enforcement against the company proves ineffective, unless a member of the Board shows that bankruptcy was declared or arrangement proceedings were initiated in due time, or that the lack of such a declaration or arrangement proceedings was not his fault, or if he indicates property on which the enforcement can be effected.

This responsibility of Board members includes tax obligations arising while carrying out the duties of a Board member. The Code of Commercial Companies also provides for the civil and criminal liability of the company founders, Management Board and Supervisory Board members and shareholders, for certain activities undertaken in violation of the law.

### Dissolution

A joint-stock company may be dissolved:

- ▶ for reasons provided under the company's Articles of Association;

- ▶ on a resolution of the Shareholders' Meeting to dissolve the company or to transfer abroad the registered office or principal establishment of the company;
- ▶ upon declaration of the company's bankruptcy;
- ▶ for other reasons provided for by law.

## European Company

A European Company is a company which is intended for large, European-size businesses. It is to be free of the obstacles resulting from national company laws of each EU member state. The main advantage of a European Company is the possibility to move its registered office from one EU state to the other without losing legal personality.

A European Company is regulated by the Regulation No. 2157/2001 on the Statute for a European Company, European Company's Articles of Association, laws of EU member states adopted in implementation of EU measures relating to this Company and laws of EU member state which would apply to a joint-stock company formed in accordance with the law of the member state where the European Company has its registered office. This means that, to the extent not regulated in the EU laws, European Companies with registered offices in Poland will be subject to Polish law regulating joint-stock companies established under Polish Code of Commercial Companies.

### Formation

A European Company may be formed through:

- ▶ merger of two joint-stock companies from different EU member states;
- ▶ formation of a holding company by two joint-stock companies or limited liability companies from different EU member states or by any two joint-stock companies or limited liability companies having for at least two years a subsidiary or a branch in another EU member state;
- ▶ formation of a joint subsidiary by two entities from different EU member states or by two entities having for at least two years a subsidiary or a branch in another EU member state, or
- ▶ transformation of a joint-stock company previously formed under national law having for two years a subsidiary in another EU member state.

Any existing European Company may move its registered office to Poland.

### Capital requirements

A European Company must have a minimum capital of € 120,000 (unless the Polish law requires larger capital for companies exercising certain types of activity).

## Management

Founders of the European Company may choose between the two-tier system (i.e. the system composed of the management board and supervisory board, similar to the Polish joint-stock companies described above) or single-tier system (i.e. the system where the European Company is managed by the administrative board, close to the concepts of Spanish or Italian company law). The one-tier system assumes that the European Company's administrative board runs its affairs, represents it and supervises its business.

The administrative board may appoint managing directors from among its members or from third parties. However, at least one-half of the administrative board members should not be managing directors.

## Limited liability company

A limited liability company may have a single shareholder. However, a limited liability company cannot be formed solely by another limited liability company with one shareholder. Incorporation of a limited liability company involves broadly the same procedure as incorporation of a joint-stock company. A limited liability company does not necessarily require an audit every year (see Accounting and audit requirements).

### Share capital requirements

The minimum share capital of a limited liability company is PLN 50,000. The full amount of the share capital must be paid up before registration. The nominal value of one share cannot be less than PLN 50.

A shareholder can hold either one share (when shares are divisible and unequal) or more than one share (when they are indivisible and equal). Preference shares may be issued. The transfer or pledge of a share or its part in a limited liability company should be made in written form with the signatures authenticated by a notary public.

### Reserve capital

There is no requirement for a limited liability company to have a reserve fund.

### Management

The formal bodies of a limited liability company are the Shareholders' Meeting and the Management Board.

A Supervisory Board or Audit Commission is optional, unless the limited liability company has a share capital exceeding PLN 500,000 and there are more than 25 shareholders. The Shareholders' Meeting is the supreme body of a limited liability company. The Shareholders' Meeting has similar rights to those of a joint-stock company, although some of the activities exclusively within its competence, and the majorities required for passing resolutions on certain issues, may differ.

The Shareholders' Meeting elects the Management Board.

The powers of the Management Board are similar to those of a joint-stock company, except that any individual Board member may conduct matters not exceeding the scope of the ordinary course of business. Members of the Management Board of a limited liability company may be elected for an unlimited period of time.

Each shareholder has the right of inspection. In order to exercise this right, each shareholder (or a shareholder accompanied by an authorised person) may at any time inspect the books and documents of the company, draw up a balance sheet for his own use, and request the Management Board to provide explanations. Where a Supervisory Board or Audit Commission is established, the company's Articles of Association may exclude the right of individual inspection by shareholders. The Supervisory Board (Audit Commission) of a limited liability company, where appointed, must consist of at least three persons. The powers of the Supervisory Board are similar to those of a joint-stock company.

### Responsibility

The rules are identical to those applicable to a joint-stock company, described above.

### Dissolution

A limited liability company may be dissolved for reasons similar to those for a joint-stock company.

### Major differences between limited liability companies and joint-stock companies

Shareholders	Limited liability company	Joint-stock company
Number of founding members	One or more shareholders. A limited liability company cannot be formed solely by another limited liability company with one shareholder.	One or more founding members. A limited liability company with one shareholder cannot be the sole founding member of a joint-stock company.
Minimum amount	PLN 50,000	PLN 500,000
Minimum value of one share	PLN 50	PLN 0.01 (1 grosz)
Contributions	In cash or in kind. The full amount of the share capital must be paid up before registration.	In cash or in kind. Shares acquired through a contribution in kind should be fully paid up not later than one year after the registration of the company. Shares acquired through a cash contribution should be 25% paid up prior to the registration of the company. If the shares are acquired solely through a contribution in kind, or through a contribution in kind plus a cash contribution, 25% of the nominal share capital should be paid up prior to registration.

Shareholders	Limited liability company	Joint-stock company
Valuation procedure in the case of a contribution in kind	No valuation report needs to be drawn up by the shareholders.	The founders must prepare a special valuation report to be examined in the course of the registration process by auditors appointed by the registration court.
Additional payments	The company's Articles of Association may oblige shareholders to make additional payments up to a specified amount in proportion to their shares.	Shareholders may be obliged to make additional payments only in exchange for additional privileges granted for their shares.
Authorized capital	The law does not provide for such a possibility.	The Articles of Association may authorize the Management Board to conditionally increase the share capital for a period not longer than three years.
Supervision	Each shareholder has the right of inspection. A Supervisory Board or Audit Commission is optional, unless the company has share capital exceeding PLN 500,000 and there are more than 25 shareholders.	Shareholders have no right of inspection. A company must appoint a Supervisory Board.
Exclusion of a shareholder	Relating to an individual shareholder, the court may decide on the exclusion thereof on the request of all the remaining shareholders, provided that the value of the shares held by the shareholders requesting the exclusion exceeds one half of the initial capital.	The law does not provide for the possibility of excluding a shareholder. However, the possibility of compulsory buyout of shares (so-called "squeeze-out") exists.
Responsibility	Management Board members are liable jointly and severally with all their assets for the company's liabilities towards its creditors and for the company's tax arrears if enforcement against the company proves ineffective, unless a member of the Board shows that bankruptcy was declared or arrangement proceedings were initiated in due time, or that the lack of such declaration or arrangement proceedings was not his fault, or if he indicates property on which the enforcement can be effected.	Management Board members are liable jointly and severally with all their assets for the company's tax arrears if enforcement against the company proves ineffective, unless a member of the Board shows that bankruptcy was declared or arrangement proceedings were initiated in due time, or that the lack of such declaration or arrangement proceedings was not his fault, or if he indicates property on which the enforcement can be effected.

## 2.3. Commercial partnerships

There are four types of commercial partnerships under Polish law. According to new legal provisions, the rights and obligations of a partner in a partnership may be transferred, under certain conditions, to another party, who becomes a partner after the effective transfer of rights.

### Registered partnership

This form of partnership is regulated by the Code of Commercial Companies. Such a partnership does not have legal personality, though it may act on its own behalf, and has its own assets and debts. All participants are jointly and severally liable for the partnership's obligations, but creditors are obliged to seek payoffs in the assets of the partnership first. The liability of partners may not be excluded.

All partners are entitled to represent the partnership and manage its business. A partner may be excluded from the representation of the partnership in the agreement establishing the partnership or by the court.

The deed of the registered partnership must be prepared in writing; otherwise it is null and void.

### Limited partnership

The limited partnership is also regulated by the Code of Commercial Companies and it also has no legal personality.

There are two types of partners in this partnership, which differ in liability from each other. The personal liability of certain partners is limited to a declared amount, which is registered in the Register of Entrepreneurs. Such partners are free of any liability above the amount of their contribution to the partnership. A limited partner can only represent the partnership to a limited extent set by the power of attorney granted to him by the partnership. Other partners are liable jointly and severally for all the obligations of the partnership with their personal assets, in the appropriate way as partners in a registered partnership.

The deed of a limited partnership must be prepared by a notary public in the form of a notarial deed; otherwise it is null and void. In most matters, the provisions concerning registered partnerships also apply to limited partnerships.

## Professional partnership

This partnership is available for investors wishing to conduct economic activities defined as “free professions” in Poland. These include attorneys at law, notaries public, dentists, architects and accountants, and are fully listed in Article 88 of the Code of Commercial Companies. This partnership also has no legal personality.

Partners in this partnership must be entitled to work in the profession concerned. They are liable for the partnership's obligations with all their personal assets. However, their liability is limited to obligations arising from the actions or relinquishments of people working for the partnership under the management of a certain partner. The deed of the partnership may provide that partners are liable for all the obligations of the partnership. Each partner is entitled to represent the partnership independently unless the deed states otherwise. A partner may be deprived of the right to represent the partnership by a resolution of the other partners. The deed of the partnership must be prepared by a notary public in the form of notarial deed; otherwise it is null and void.

## Limited joint-stock partnership

This partnership also has no legal personality, though it is a hybrid of a joint-stock company and a limited partnership. The deed of this partnership must be prepared by a notary public; otherwise it is null and void. There are two types of partners required to form this partnership:

- ▶ a partner whose liability for all the obligations of the partnership is not limited in any way and is regulated in the same way as in a registered or limited partnership;
- ▶ a shareholder who is not liable for the obligations of the partnership but is obliged to acquire and pay up the shares - the legal status of this shareholder is equal to that of a shareholder in a joint-stock company.

Partners are entitled to represent the partnership, while shareholders may do so only on the basis of a power of attorney. Partners manage the day-to-day business of the partnership. In certain situations, some partners may be excluded from management and representation. The minimum share capital of this partnership is PLN 50,000. Partners may contribute to the company in cash or in kind, but this is not obligatory.

This partnership may form the following formal bodies:

### Supervisory Board

If the number of shareholders exceeds 25, a Supervisory Board must be established. If there are fewer than 25 shareholders, the Supervisory Board may be established by the General Meeting. The members of this corporate authority are elected by the General Meeting.

## General Meeting

The General Meeting has a different character than in a joint-stock company or limited liability company. It consists of shareholders and partners, who may take part in the Meeting even if they do not possess any shares in the partnership.

The Meeting may exclusively:

- ▶ examine and approve the partners' report, and financial statements for the previous year, and dissolve the partnership;
- ▶ acknowledge the fulfillment of duties by members of the Supervisory Board and partners managing the day-to-day business of the partnership;
- ▶ appoint a certified auditor, unless this is reserved for the Supervisory Board.

The provisions concerning voting in joint-stock companies apply to this partnership accordingly. However, in certain cases an unanimous resolution of the partners is obligatory. In other cases, a resolution passed by a majority of the partners is sufficient, if, together with votes of the shareholders, the required majority is reached.

If the provisions regarding this company do not provide a comprehensive solution, the provisions concerning limited partnerships apply accordingly to the legal status of partners and their contributions to the partnership. In other cases, the rules concerning joint-stock companies apply appropriately to the limited joint-stock partnership.

## European Economic Interest Grouping

The purpose of the European Economic Interest Grouping is to facilitate or develop the economic activities of its members. The European Economic Interest Grouping has legal capacity but its members are fully liable for its debts. It can be formed by companies, firms and other entities governed by public or private law which have been formed in accordance with the law of any EU member state and which have their registered office in the EU. It can also be formed by individuals carrying on an industrial, commercial, craft or agricultural activity or providing professional or other services in the Community. However, at least two members must reside or has registered office in different EU member states.

Unless otherwise regulated in the Regulation No 2137/85 on the European Economic Interest Grouping or in the Act on European Economic Interest Grouping and European Company, Polish law regulating registered partnership applies to European Economic Interest Grouping with registered office in Poland.

## Sole proprietorship

This form of business entity is widely used in Poland, especially for small enterprises. It is not subject to any special regulations except the Act on Freedom of Economic Activity. A natural person may conduct economic activity in this form using either his/her name or the name of the enterprise.

A person using this form of economic activity is liable for all obligations arising from it with all his/her personal assets.

## 2.4. Branches and representative offices

Under the terms of the Act on Freedom of Economic Activity, foreign investors may use the following forms of business entity:

- ▶ branch;
- ▶ representative office.

A branch is registered in the Register of Entrepreneurs, a part of the National Court Register, under the name of the foreign investor with a supplement "branch in Poland". Such a branch may only conduct activities within the scope of business of the foreign investor who established the entity concerned. The minister responsible for the economy may prohibit the further conduct of activities by a branch in certain situations specified in law. A representative office may conduct activity in the area of promotion and advertising of the foreign investor establishing the entity. No other economic activity may be conducted in this form. Such an office is registered in a special register of representative offices kept by the minister responsible for the economy. Registration may be refused in certain situations provided by law.

Establishing a branch or representative office does not require any permits to be obtained from administrative authorities. In both cases, registration and an entry into the appropriate register are obligatory.

## 2.5. The Register of Entrepreneurs

According to the Law on the National Court Register of 7 October 1997, companies and commercial partnerships must be registered in the Register of Entrepreneurs, which is the part of the National Court Register managed by district courts. The Register of Entrepreneurs is open to the public. It consists of six parts. The information contained in it includes, among other things:

- ▶ part 1 - the company's name and legal form, REGON number, its previous number in a commercial register or register of businesses, place of conducting business activity, and address of the registered office of the company, indication of the shareholders of commercial partnerships, any branches of the company, the share capital of the company (and whether it was covered by contributions in cash or in kind), indication of the shareholders of limited liability companies with the number of shares held by each (only those shareholders holding more than 10% of the share capital), the only shareholder of joint-stock company, the company's statutes and any subsequent amendments;
- ▶ part 2 - the representatives, the supervisory bodies and any holders of a commercial power of attorney of the company;
- ▶ part 3 - scope of activity, information on submission of the annual financial statements of the company, auditor's reports, resolutions on the adoption of the financial report and distribution of profits and losses;
- ▶ part 4 - information on outstanding tax and other payments and social security contributions covered by enforcement if they were not paid within sixty days of the initiation of enforcement proceedings, indication of creditors of the company and its claims if the creditor has an execution title and was not paid within thirty days after the date of his call-in to the fulfillment of the performance, information regarding securing the debtor's assets in bankruptcy proceedings by suspension of execution as well as information regarding the dismissal of the motion due to the fact that the debtor's assets are insufficient to cover the costs of the proceedings;
- ▶ part 5 - information on appointment or dismissal of custodians for the company;
- ▶ part 6 - information on the initiation and termination of liquidation proceedings, appointment of receivership, the liquidators and official receivers, dissolution and annulment of the company, mergers and transformations of the company, information on the initiation and termination of restoration proceedings as well as the other information regarding those proceedings whose disclosure in the National Court Register is required by law.

A partnership may commence its operations after it is entered in the register. This rule does not apply to companies, which may commence their activity before they are entered in the register. A company is entered in the register upon an application made by its management board. Any changes in data contained in the register must be reported to the court, and must be entered in the register. An application for a company to be entered in the register or for data contained therein to be changed must be filed by using a special official form.

The court is obliged to issue its decision concerning entering the company or changes in data contained in the register within 14 days of the date an application is filed. However, in practice this time limit may be prolonged.



## 3. Real estate

### 3.1. Acquisition of real estate by foreigners

As a rule, under the currently binding regulations (the Act on Acquisition of Real Estate by Foreigners, further referred to as the "Act") foreign nationals (individuals and entities), willing to purchase real estate in Poland, must obtain a permit of the Minister of Internal Affairs and Administration.

Furthermore under the Act foreign investors must also obtain a permit of the Minister of Internal Affairs and Administration for the purchase of shares in a commercial company that has its registered office in Poland, or for the execution of any other legal action that may concern such shares, if the company that is the owner or perpetual usufructuary of real estate in Poland will become, as a result of the above purchase or another action, a so called "controlled" company. In addition, the permit is required for the purchase or subscription for shares in an already controlled commercial company, with its registered office in Poland, if the company is the owner or perpetual usufructuary of real estate in Poland and the shares are purchased/subscribed for by a foreign investor who is not a shareholder in that company.

There are, however, numerous exceptions from this rule and the most important one concerns citizens and entrepreneurs (including also companies) of the EEA countries and Switzerland. These citizens and entrepreneurs do not require any permit for the acquisition of real estate or shares in companies which own/hold under perpetual usufruct real estate, except for the following cases:

- ▶ the acquisition of a forest or agricultural real estate (there are, however, some additional exceptions to this rule regarding the unrestricted acquisition of land by tenants from the EEA and Switzerland that have used the land on the basis of lease agreements (*umowa dzierżawy*) for at least 3 or 7 years, depending on the location of land, and subject to some additional conditions); this restriction applies until 2 May 2016;
- ▶ the acquisition of so called "second houses" (housing or recreational real estate that will not constitute foreign citizen's permanent residence, except for a self-contained apartment); this restriction will apply until 2 May 2009 and admits certain exceptions regarding acquisition of land by foreign citizens from the EEA and Switzerland who (i) legally reside in Poland for at least 4 years, or who (ii) acquire the land for conducting business activity in the tourist services sector.

In consequence, currently the requirements of the Act to obtain the permit of the Minister of Internal Affairs and Administration before a foreigner can acquire real estate or shares in a company that owns/holds under perpetual usufruct real estate apply mainly to foreigners other than those from the EEA countries and Switzerland.

Nevertheless, investors from countries other than those being the part of the EEA, as well as Switzerland, can easily avoid this restriction by setting up in Poland, in another EEA country or in Switzerland a subsidiary or a branch that can without restrictions (i.e. without necessity of obtaining the prior permit of the Minister of Internal Affairs and Administration) acquire real estate (or shares in a Polish company that owns/holds under perpetual usufruct real estate). This is possible as such a subsidiary or branch will be regarded as an entrepreneur of the EEA or Switzerland that is allowed, under the general exemption, to make the acquisition without the necessity of obtaining the permit (with some exceptions that are discussed above).

Real estate is defined under the Polish Civil Code as "land which constitutes a separate object of ownership, as well as buildings permanently attached to the land or their parts if under special provisions they constitute an object of ownership separate from the land."

In the Act, the foreigner is defined as:

- a) a person who is not a Polish citizen, or
- b) a legal person having its registered office outside Poland, or
- c) a partnership of persons mentioned under items (a) and (b), having its registered office abroad, established in accordance with legal regulations of a relevant foreign country, or
- d) a company or a legal person having its registered office in Poland, controlled, directly or indirectly, by companies or person/s mentioned under (a), (b), and/or (c).

A commercial company is deemed to be "controlled" if a foreigner or foreigners hold, directly or indirectly, over 50% of votes at the general shareholders' meeting, also as a pledgee, usufructuary or on the basis of agreements with other parties, or if foreigners are "dominant entities" in this company, as defined by the Code of Commercial Companies in Article 4 § 1 point 4 (b), (c) or (e).

The definition of a "dominant entity" in Article 4 § 1 point 4 (b), (c) or (e) of the Code of Commercial Companies covers the following cases:

- ▶ the entity is entitled to appoint and remove the majority of members of the Management Board or the Supervisory Board of another entity (dependent entity), also on the basis of agreements with third parties;
- ▶ the entity holds, directly or indirectly, a majority of votes in a dependent partnership or at the general meeting of a dependent cooperative, also on the basis of agreements with third parties.

A permit is issued upon a foreigner's application if:

- ▶ the acquisition of real estate by the foreigner does not entail a threat to national defense, safety or public order, and does not contravene social and health policy;
- ▶ the foreigner can prove that he/she has links with Poland (e.g. Polish nationality, Polish origin, marriage to a Polish national, possession in Poland of a permit for a temporary residence, a permit to settle or a stay permit of an EU long term resident, membership of a managing authority in a controlled company in Poland, conducting business or agricultural activity in Poland).

The area of real estate acquired by a foreign citizen for residential purposes may not exceed 0.5 ha. If real estate is acquired by a foreigner conducting business operations in Poland, the area should be sufficient to meet the needs of that business.

Currently, applications are reviewed within 2-4 months (including consultation with the Minister of National Defense and the Minister of Agriculture) but sometimes this procedure may last longer. Additionally, it takes a few weeks to collect all necessary documents before the application is filed.

The policy of the Minister of Internal Affairs and Administration is to grant permits exclusively to companies (or branches) that were incorporated in Poland. Consequently, chances to receive a permit directly by a foreign company that was incorporated abroad are equal to nil.

If the investor does not have a commercial company in Poland, he/she can submit an application and obtain a promise of a permit. The promise is subject to the relevant regulations on such permits. The promise of a permit is valid for one year from the date of issue. During this period, the Minister may not refuse to grant a permit unless material facts relating to the case change.

In addition to the general exemptions available to the EEA and Swiss citizens and entrepreneurs, the permit is also not required, *inter alia*, in the following cases:

- ▶ purchase of a self-contained apartment;
- ▶ purchase of a self-contained garage if this is connected with the satisfaction of the housing needs of a purchaser/owner of real estate or a self-contained apartment;
- ▶ purchase of real estate by a foreign citizen residing in Poland for at least 5 years (from the date of obtaining a residency permit);
- ▶ acquisition by a foreign citizen whose spouse is a citizen of Poland, provided that the foreign citizen has been residing in Poland for at least 2 years from obtaining a residency permit, of real estate which will become part of the spouses' joint property;
- ▶ purchase of real estate by a foreign citizen, if on the date of purchase the foreign citizen is entitled to statutory inheritance from the seller of real estate, and if the seller has been the owner or the perpetual usufructuary for at least 5 years;

- ▶ purchase for business purposes by legal persons and partnerships not vested with a legal personality, controlled directly or indirectly by foreigners, of undeveloped real estate located within the city limits whose area, together with the area of other real estate already owned in Poland by such foreigner, does not exceed 0.4 ha;
- ▶ acquisition of real estate by a bank who is a mortgagee by way of taking possession as a result of unsuccessful auction sales;
- ▶ acquisition (by purchase or otherwise) by a corporate bank controlled directly or indirectly by foreign investors, of shares or interests in a company or partnership which is the owner or perpetual usufructuary of real estate, if the acquisition involves enforcement of the bank's claims resulting from the banking business;
- ▶ acquisition of shares of companies that are listed on a stock exchange or an OTC (over-the-counter) market;
- ▶ acquisition of shares of companies that are owners/perpetual usufructuaries of such real estate the acquisition of which is exempt from the permit requirement.

The above mentioned exemptions will not apply if real estate is located in the border zone or constitutes agricultural land of over 1 ha.

The permit is subject to stamp duty amounting to PLN 1,570.

## 3.2. Perpetual usufruct

Perpetual usufruct is a right of a similar nature as the ownership right, although it is established for a limited period of time. It is governed by the provisions of the Civil Code and the Law on Real Estate Management.

Perpetual usufruct may be established on land owned by the State within the territories of cities (or outside cities but covered by local development plans) and land owned by local municipal authorities, as well as some other state or municipal land as provided in special regulations.

Perpetual usufruct is established for the period from 40 to 99 years. Upon expiration of this period, the perpetual usufruct may be extended for another period of up to 99 years (further extensions are also possible). The extension may only be denied where an important social interest considerations are at stake.

Establishment of perpetual usufruct is executed in the form of a notarial deed (entry in the Land and Mortgage Register is necessary). Establishment of perpetual usufruct entails transfer of ownership of buildings (or other constructions) to the usufructuary. Charges for the transfer of a plot of land for perpetual usufruct are collected as a one-time fee on delivery and annual fees thereafter. The first fee is payable in

a lump sum not later than on the execution date of the perpetual usufruct contract. The annual fees are paid throughout the term of the contract (by 31 March each year) starting from the year following the year in which perpetual usufruct was established. The first fee corresponds to 15%-25% of the value of the land, while the annual fees vary from 0.3% to 3% of the value depending on the purpose for which the property was delivered under perpetual usufruct.

It should be noted that buildings (or other structures) erected on land under perpetual usufruct remain the property of the usufructuary whereas the general rule is that the buildings erected on the owner's land become the property of the owner of the land. Accordingly, the ownership of existing buildings may be transferred only simultaneously with the transfer of the perpetual usufruct of the land.

A usufructuary may assign its acquired right or in other more colloquial language, he may "sell" the property which he holds in perpetual usufruct. In this respect the provisions governing the transfer of ownership apply.

Upon expiration of the perpetual usufruct the usufructuary is entitled to compensation for the erected buildings (and other constructions) unless they have been erected in breach of the agreement on establishing the perpetual usufruct. The compensation amounts to the value of buildings (or other constructions) as at the day of expiration.

### 3.3. Leases

Both Polish and foreign legal entities and natural persons may lease real estate. There is no requirement to obtain a permit from the Minister of Internal Affairs and Administration. Polish law recognizes two types of lease contracts: *umowa najmu* and *umowa dzierżawy*. Under *umowa najmu* the lessee may only use the property, while under *umowa dzierżawy* the lessee may use the property and collect benefits therefrom. Both types of contracts may be executed for a definite or indefinite duration. A typical use for *umowa najmu* would be the short-term lease of an apartment or an office. *Umowa dzierżawy* would typically be used for the lease of farmland or a site for development. Any lease for a period of more than one year should be executed in writing. Furthermore, both Polish and foreign entities may use real estate under various leasing schemes (in particular on the basis of so-called "sale and lease back" transactions). There is no requirement to obtain a permit from the Minister of Internal Affairs and Administration in this case either.

## 3.4. Real estate purchase agreements

In principle real estate owned by state or local authorities can be purchased only through an auction or tender procedure. Real estate owned by other entities or persons can be acquired on the basis of a sale contract, donation, inheritance etc. According to the rules of the Civil Code, the contract for purchase of real estate must be made in the form of a notarial deed executed by a Polish notary. A contract in any other form is null and void. It is possible to execute, prior to obtaining the Ministry's permit, a preliminary agreement in which the seller undertakes to sell a specific piece of real estate to the purchaser and the purchaser undertakes to pay a price for such real estate to the seller on a specific day or on a specific condition. Such agreement does not transfer the ownership title to the real estate, but is the basis for a claim for execution of the final agreement after the permit is obtained. After the Ministry issues the permit, the agreement to transfer the ownership title to the real estate or the perpetual usufruct right should be executed in the form of a notarial deed; otherwise it is null and void.

## 3.5. Real estate and mortgage register

Once the final agreement to transfer the ownership title to the real estate or the perpetual usufruct right is duly executed, the new owner or usufructuary should be entered in the real estate and mortgage register maintained by the appropriate court.

## 3.6. Reprivatisation

After the Second World War the Polish government nationalized most of the real estate which belonged to private owners. In many cases this happened in violation of applicable nationalization regulations (which were numerous and regulated various types of situations). In recent years previous owners started to demand their land and buildings to be returned to them. Poland has not, however, enacted any reprivatisation law to govern this process. Accordingly, the only way for restituting ownership is to prove in court or administrative proceedings that the nationalization took place in violation of the relevant provisions. Often such actions prove to be successful.

Accordingly, before purchasing any real estate (in particular the one from the state or a local government authority), care must be taken to ensure that no reprivatisation claims have been asserted by former owners.

## 3.7. Investment process

Assuming the land is zoned for the intended type of investment, at the beginning of the construction process a construction permission is required. It can be issued:

- ▶ directly based on a local development plan;
- ▶ if the plan does not exist, a decision on site development conditions (WZ) is required. The investor, having received this decision and made other necessary arrangements may apply for the construction permission.

At the end of the planning and construction process the investor usually must obtain an occupancy permit.

Unfortunately, starting from January 2004 most of old local development plans in Poland have expired. Therefore, until the adoption of new plans (this process is very slow and the majority of areas are not covered by valid plans), investors have to apply for WZ.

Generally speaking, the legal system concerning the development process is complicated and ineffective. Because of that in recent years consecutive governments have proposed several reforms to the regulations concerning development procedures. None of them were passed by parliament although the need to make these procedures simpler and more friendly for the applicants is widely recognized.

## 3.8. Acquisition of agricultural land

Polish agricultural policy favors the family-owned farms with an area not bigger than 300 ha on which agricultural activity is carried on by persons having agricultural experience or qualifications. The same rules concern Polish and foreign citizens.

There is no area limit on the acquisition of privately owned agricultural real estate by individuals or companies. However, the Agricultural Real Estates Agency can execute the first refusal right unless the transaction meets certain requirements (e.g. the transaction is executed to increase the area of the family-owned farm up to 300 ha and the purchaser lives in the same or neighboring municipality). This is a way of controlling by the State Agency transactions concerning agricultural real estate.

State-owned agricultural real estate is controlled by the Agricultural Real Estate Agency. The sale of agricultural real estate by the Agency may take place only if, as a result of this transaction, the total area of the farming land owned by the acquirer does not exceed 500 ha.



## 4. Taxation

### 4.1. Corporate Income Tax

The Personal Income Tax, Corporate Income Tax and Value Added Tax Laws were all introduced in the early 1990s. Since that time Polish tax law is subject to frequent and fundamental changes. Such changes may occur through various mechanisms: changes in laws, varying court decisions, authorities' rulings and accepted practice.

Substantial modification and amendments to the tax law have resulted from the Polish accession to the European Union. The new Value Added Tax Law is binding from the date of accession (1 May 2004). The Corporate Income Tax Law has been significantly modified with regard to cross-border transactions such as payments of dividends and restructurings.

#### Scope

##### Resident vs. non-resident

A company is regarded as a Polish resident when it is either incorporated in Poland or managed and controlled in Poland. The concept of management for this purpose is broadly equivalent to the effective management test in many treaties and is typically exercised where the board of directors (or equivalent) meets and takes decisions. Resident companies are subject to corporate taxation on their worldwide income and capital gains. Non-resident companies are taxed only on income and capital gains earned in Poland. Foreign partnerships are subject to corporate tax in Poland if they are treated for tax purposes in their home country as legal persons, i.e. having unlimited tax liability. Estimates can be used to determine taxable income where this cannot be determined from the accounting records.

##### Taxation of partnerships formed by companies

Revenues derived and costs borne by partnerships are subject to corporate income tax on the proportion of the corporate partners' shares.

##### Branch vs. subsidiary

A branch of a non-resident company is generally taxed under the same rules as a Polish company. Only its Polish source income is subject to taxation. The branch will usually be taxed on income determined on the basis of the accounting records, which must be kept in Polish currency. However, there are regulations under which coefficients can be applied for specific revenue categories if the taxable base cannot

be determined from the books (see Coefficients). There is no branch withholding tax on the transfer of profits from a branch to its head office, as from the legal point of view a branch is considered to be a unit that is part of the foreign company. A branch can be transformed into a subsidiary by transferring assets or the business to the subsidiary.

### Foreign-source income

Income from an overseas representative office or permanent establishment of a Polish resident company is included in the total taxable income of such a company unless exemption can be applied under a double tax treaty (about 80% of treaties provide exemption). Under some circumstances Polish law allows overseas corporate income tax paid to be credited against Polish tax payable, but only up to the amount of Polish tax on that income. Any excess foreign tax is lost (subject to comments further below).

Dividends from a subsidiary in another EEA Member State can be exempt from income tax in Poland. The above rules apply if the Polish parent has held at least a 15% capital participation in the subsidiary for an uninterrupted period of at least 2 years. The minimum participation will be reduced to 10% from 1 January 2009. The rules also apply to permanent establishments of non-resident EEA companies located in Poland, if they receive dividends from another EEA companies. The exemption may also apply in the case of Swiss subsidiaries, however the required minimum participation of Polish parent in the Swiss subsidiary is 25%.

The above exemption does not apply if income from participation, including redemption proceeds are received as a result of liquidation of the legal entity making payments.

The tax actually paid by a foreign subsidiary on the part of its profits from which a dividend was paid can be credited against tax payable by the Polish parent company ("underlying tax credit"). However, the total tax credit utilised (i.e. the ordinary and the underlying tax credit) cannot exceed the Polish tax due on that income. To apply the underlying tax credit, the Polish recipient should hold for a minimum period of 2 years at least 75% of the capital in the company paying the dividends and the latter company should be resident in a country with which Poland has a valid double tax treaty other than EEA members or Switzerland.

Underlying tax credit does not apply to payments of liquidation proceeds.

Furthermore, the time requirement to hold the shares for an uninterrupted period of not less than 2 years doesn't have to be met on the payment date (it is possible to declare the intention to hold the shares and meet the holding period criterion after the dividend is paid).

## Financial and tax year

Corporate income tax is payable annually. However, advance monthly payments have to be made when cumulative income is recorded.

Under certain circumstances, special rules on simplified advance monthly payments can be applied.

The tax year consists of twelve consecutive months and usually corresponds to the calendar year. A company may choose to extend its first tax year up to 18 months if it was established in the second half of a calendar year and chose the calendar year as its tax year. A company is free to change its tax year by choosing another twelvemonth period and notifying the relevant tax office. When a company changes its tax year, the first tax year after the change cannot be shorter than twelve or longer than twenty three consecutive months.

## Groups of companies

### Tax consolidation

A “tax capital group” may be formed for corporate income tax purposes. Due to restrictions on forming and managing a group, this method of consolidation has rarely been used. Taxable income for the group is calculated by combining the incomes and losses of all the companies.

A tax capital group may be formed only by limited liability or joint-stock companies based in Poland, provided that average share capital is not lower than PLN 1 m.

A tax capital group can only be formed by subsidiaries 95% owned by a parent company. No other structures are allowed. An agreement on joint group filing for a minimum period of three years must be signed before a notary and filed with the tax office.

In practice, tax capital groups are rarely formed, as companies have to meet the following restrictive formation requirements:

- ▶ no outstanding tax liabilities to the Treasury (e.g. VAT, CIT) as at the date the group is formed; this condition is met also where a company, having joined a tax capital group, files an adjusted tax return and pays the outstanding tax together with default interest within 14 days of the adjusted declaration being filed or pays the arrears together with interest within 14 days of a first instance decision assessing the amount of liability is served on the company, and
- ▶ profitability ratio of the group is not lower than 3% for each tax year.

As the tax authorities have up to six years to inspect taxpayers, it is possible that the tax authorities may challenge the tax position of the companies forming the group retrospectively.

## Group losses

When a group loss arises (i.e. the companies' total losses exceed their total income), the group automatically loses its tax group status.

## Asset transfers

The transfer of assets between companies in tax capital groups is treated as a normal disposal. However, transfer pricing restrictions do not apply. Donations between companies in a tax capital group are CIT-neutral, as the donor can treat the value of the donation as a tax cost. Donations outside the group are not deductible.

## Determination of taxable base

In practice taxable income is arrived at by adjusting accounting profits for tax purposes. Taxpayers are obliged to keep books of account in a manner that allows determination of the taxable base and the amount of tax due. Otherwise, income will be assessed by the tax authorities.

## Revenues

Generally, the taxable revenues of incorporated entities carrying out business activity are recognised on an accrual basis. As a rule revenue is recognized on the date when the asset or property right was disposed of or the service was supplied (or supplied in part), not later than:

- ▶ the date of the invoice, or
- ▶ the date when the payment was received.

If the parties agree that the services are accounted for over reporting periods, the revenue is recognized on the last day of a reporting period set in a contract or an invoice; in this case revenue must be reported at least once a year.

The definition of revenues includes free and partially free benefits.

## Capital gains

Chargeable capital gains are calculated by deducting sale-related costs and expenses from the sale proceeds. They are then aggregated with other sources of income and taxed at the standard tax rate. There is no indexation allowance. If the sales price differs substantially from market value, the tax office may require an independent expert valuation. Relief from Polish taxation may be available to a non-resident company if its resident country is covered by a double tax treaty.

Capital losses are deductible from normal business income.

A capital gain arising on a contribution in kind in exchange for the issue of shares will generally carry the liability to recognize revenue at the nominal value of shares received. In most cases the revenue will correspond to the fair market value of the assets contributed. In some situations the tax point is deferred until the shares acquired in exchange for the contribution are disposed of, e.g. when:

- ▶ a contribution involves an enterprise or an organised part of an enterprise;
- ▶ shares are contributed to an EEA resident company (if the shares received in exchange give more than 50% of votes in the EEA company, or if the company possessing the shares giving 50% of votes increases its share).

Tax deductible costs linked to contributions in kind vary according to the type of asset contributed.

### Dividends, interest royalties and services

Dividend distributions are generally subject to a withholding tax of 19% levied on the gross amount. Income from sharing in profits of corporate entities paid by a Polish company to companies established in Poland or in EEA countries can be exempt from withholding tax where the dividend recipient holds at least 15% shares in the dividend payer's share capital over not less than 2 years (10% from 2009 onward). Also dividend paid to Swiss parent company can be exempt, however the shareholding threshold in that case amounts to 25%.

The minimum holding period does not have to be fulfilled on the payment date. If the holding period is not fulfilled after payment, the dividend recipient is obliged to pay the withholding tax together with penalty interest (the reduced treaty rate applies). The right to exemption is conditional on the Polish payer being provided with the certificate of tax residence of the dividend recipient.

Interest and royalty payments are subject to standard tax rates at payee level and are generally deductible for the payer. Payments of interest and royalties to foreign companies are subject to 20% withholding tax unless a relevant tax treaty provides otherwise and an appropriate tax residence certificate will be provided.

Under the CIT Law the 20% withholding rate also applies to payments of fees for advisory, accounting, market research, legal assistance, advertising, management and control, data processing, search and selection services, guarantees and pledges and other similar services (unless the relevant treaty provides otherwise). Under most Polish tax treaties such payments are treated as business income taxable in the taxpayer's country of residence.

On joining the EU, Poland should have incorporated into Polish law the provisions of the EU Directive on Interest and Royalty Payments, which (under certain conditions) eliminates withholding tax on such payments, if payable to companies or permanent establishments of EU companies established in EU member countries. However, Poland

was granted a transitional period for full implementation of this Directive. Under the transition rules withholding tax may be imposed at a maximum amount of 10% until 30 June 2009 (4 years) and a maximum of 5% to 30 June 2013 (following 4 years) provided Directive criteria are met. Interest and royalties incoming to Poland from other EU countries should generally be exempt from withholding tax if the conditions under the Directive are met and the EU source country has not been granted a transitional period.

Since 1 July 2005 interest and royalty payments paid to EU countries are subject to withholding tax at the reduced rate of 10% if, among other things, the following criteria are jointly met:

- ▶ interest/royalties are paid by a Polish resident company or the permanent establishment of an EU company in Poland;
- ▶ the beneficiary is subject to income tax on its worldwide income in an EU Member State;
- ▶ EU beneficiary and the Polish payer are 'associated companies' i.e.:
  - the EU beneficiary directly holds at least 25% of the Polish payer's shares, or
  - the Polish payer directly holds at least 25% of the EU beneficiary's shares, or
  - a third EU company directly holds at least 25% in the capital of both the EU beneficiary and the Polish payer;
- ▶ the holding will be maintained for an uninterrupted period of not less than two years;
- ▶ the EU beneficiary's tax residence certificate is provided to the Polish payer.

## Coefficients

Where it is impossible to determine the taxable income of foreign entities (branches, permanent establishments) based on the books of account, the tax authorities may assess taxable income by applying the relevant coefficient for specific revenue categories. The coefficients are: 5% for wholesale and retail activities, 10% for construction, assembly and transport services, 60% for agency activities, 80% for legal or expert services and 20% for income derived from other sources. Taxable income is then taxed at the standard rate.

## Costs

Starting from 1 January 2007 the costs incurred for the purpose of generating income, retaining or protecting sources of income are divided into direct and other costs.

Direct costs are tax deductible:

- ▶ in the tax year in which the related income was earned (including those incurred after the end of the tax year but before the date of the financial statements/filing deadline for the annual tax return);

- ▶ in the tax year following the year for which the financial statements are prepared/ the annual tax return filed if the costs were incurred after the financial statements are prepared/the annual tax return is filed for the tax year in which the related income was earned.

Other (indirect) costs are tax deductible on the date they were incurred. If they relate to a period longer than the tax year and it is impossible to determine which part should be attributed to a given tax year they should be allocated on a *pro rata* basis according to the length of the period to which they relate.

## Depreciation

Assets which have a useful life of more than one year are deemed capital items and are therefore subject to depreciation.

Tax depreciation is often different from book depreciation. Tax depreciation rates are specified in tax law and cannot be exceeded. Both straight line and reducing balance methods are allowed (the latter applies only to machinery and equipment, except for passenger cars). Under certain circumstances, it is possible to apply accelerated tax depreciation. Land is not subject to depreciation.

### Typical examples of depreciation rates

Asset	Rate (%)
Buildings	2.5
Office equipment	14
Computers	30
Motor vehicles	20
Plant and machinery	5 to 20

Intangibles subject to amortisation are the following:

- ▶ intellectual property rights and licenses;
- ▶ know-how (with the exception of know-how contributed in kind);
- ▶ goodwill resulting from the purchase of a business (assets and liabilities making up an enterprise or its organised part); goodwill on share deals or mergers is excluded from tax amortisation;
- ▶ certain research and development costs.

Intangibles are amortised over a period ranging from twenty-four months (e.g. for licenses to computer software) to sixty months (e.g. for goodwill).

## Bad debts

Bad debts, written off as uncollectible, are tax deductible only if they were previously accounted for as revenues for tax purposes (thus no loan/credit write-off is allowed with the exception of banks). Bad debts are deemed to be uncollectible and may be tax deductible when:

- ▶ a decision on uncollectibility issued by a court execution officer is approved by the creditor as reflecting the actual situation;
- ▶ the court dismisses a request for bankruptcy where the bankruptcy assets are not sufficient to cover the costs of proceedings, or discontinuation of bankruptcy proceedings for the same reason, or completion of the proceedings;
- ▶ the taxpayer files a statement to the effect that the projected costs of court or enforcement proceedings will exceed the amount of claims.

The uncollectibility of debts will be considered probable and therefore a provision for bad debts may be created and recognised as tax deductible cost when:

- ▶ a debtor dies or is deleted from the National Court Register or is put into liquidation or declared bankrupt;
- ▶ a debtor has requested settlement or bankruptcy proceedings and they have been initiated;
- ▶ a debt has been confirmed by a court decision and is subject to enforcement proceedings;
- ▶ a debt is questioned by the debtor under a court claim.

There are special rules on bad debt provisions for banks.

## Thin capitalisation

Interest due on loans or credits granted by a related party (a sister company held by the same parent or a shareholder holding at least 25% of share capital measured by voting power) is not recognised as a tax deductible cost when the loan/share capital ratio exceeds 3:1 in a portion in which the loan (credit) exceeds this ratio. For thin capitalization purposes, a "loan" is any kind of debt claim including debt securities and certain deposits.

## Others

There are certain exceptions to the matching concept, e.g. foreign exchange gains/losses are taxable/deductible when realised (i.e. settled). Certain expenditures are not tax deductible, for instance:

- ▶ expenditures incurred in respect of abandoned investments;
- ▶ most penalties and fines;

- ▶ expenditures incurred in excess of the statutory limit (e.g. depreciation charges and insurance of passenger cars over € 20,000);
- ▶ representation expenses.

## Losses

Tax losses suffered by a company which has a legal personality may be carried forward and set off against income over the five following tax years. Up to half the original loss may be deducted in any one year. Losses cannot be carried back.

## Withholding taxes

The standard rate of withholding tax is 19% on dividends and 20% on interest and royalties. If paid abroad, the rate may be reduced under a double tax treaty upon presentation of a certificate of tax residence. The table below shows the withholding tax rates under Polish double tax treaties.

### Withholding taxes under Poland's tax treaties (%)

	Dividends (%)	Interest (%)	Royalties (%)
Albania	5/10 (d)	10	5
Algeria (gg)	5/15 (d)	0/10 (k)	10
Armenia	10	5	10
Australia	15	10	10
Austria	5/15 (a)	0/5 (k)	5
Azerbaijan	10	10	10
Bangladesh	10/15 (a)	0/10 (k)	10
Belarus	10/15 (e)	10	0
Belgium	5/15 (cc)	0/5 (k)	5
Bulgaria	10	0/10 (k)	5
Canada	15	0/15 (k)	0/10 (f)
Chile	5/15 (c)	15 (dd)	5/15 (h) (ee)
China	10	0/10 (k)	7/10 (h)
Croatia	5/15 (d)	0/10 (k)	10
Cyprus	10	0/10 (k)	5
Czech Republic	5/10 (c)	0/10 (k)	5
Denmark	0/5/15 (s)	0/5 (k)	5
Egypt	12	0/12 (k)	12
Estonia	5/15 (d)	0/10 (k)	10
Finland	5/15 (d)	0	0/10 (f)

	Dividends (%)	Interest (%)	Royalties (%)
France	5/15 (a)	0	0/10 (p)
Georgia	10	0/8 (k)	8
Germany	5/15 (a)	0/5 (k)	5
Greece	19	10	10
Hungary	10	0/10 (k)	10
Iceland	5/15 (d)	0/10 (k)	10
India	15	0/15 (k)	20 (bb)
Indonesia	10/15 (c)	0/10 (k)	15
Iran	7	0/10 (k)	10
Ireland	0/15 (d)	0/10 (k)	0/10 (v)
Israel	5/10 (b)	5	5/10 (h)
Italy	10	0/10 (k)	10
Japan	10	0/10 (k)	0/10 (i)
Jordan	10	0/10 (k)	10
Kazakhstan	10/15 (c)	0/10 (k)	10
Korea	5/10 (a)	0/10 (k)	10
Kuwait	0/5 (z)	0/5 (k)	15
Kyrgyzstan	10	0/10 (k)	10
Latvia	5/15 (d)	0/10 (k)	10
Lebanon	5	0/5 (k)	5
Lithuania	5/15 (d)	0/10 (k)	10
Luxembourg	5/15 (d)	0/10 (k)	10
Macedonia	5/15 (d)	0/10 (k)	10
Malaysia	0	15	15
Malta	5/15 (c)	0/10 (k)	10
Mexico	5/15 (d)	0/5/15 (k) (aa)	10
Moldova	5/15 (d)	0/10 (k)	10
Mongolia	10	0/10 (k)	5
Morocco	7/15 (d)	10	10
Netherlands	5/15 (a)	0/5 (k)	5
New Zealand	15	10	10
Nigeria (gg)	10	0/10 (k)	10
Norway	5/15 (d)	0	0/10 (f)

	Dividends (%)	Interest (%)	Royalties (%)
Pakistan	15 (j)	0/20 (k)	15/20 (n)
Philippines	10/15 (d)	0/10 (k)	15
Portugal	10/15 (o)	0/10 (k)	10
Romania	5/15 (d)	0/10 (k)	10
Russian Federation	10	0/10 (k)	10 (w)
Singapore	0/10 (r)	0/10 (k)	10
Slovak Republic	5/10 (c)	0/10 (k)	5
Slovenia	5/15 (d)	0/10 (k)	10
South Africa	5/15 (d)	0/10 (k)	10
Spain	5/15 (d)	0	0/10 (f)
Sri Lanka	15	0/10 (k)	0/10 (l)
Sweden	5/15 (d)	0	5
Switzerland	5/15 (d)	10	0 (y)
Syria	10	0/10 (k)	18
Tajikistan	5/15 (d)	10	10
Thailand	19 (t)	0/10/20 (k) (m)	5/15 (f)
Tunisia	5/10 (d)	12	12
Turkey	10/15 (d)	0/10 (k)	10
Ukraine	5/15 (d)	0/10 (k)	10
United Arab Emirates	0/5 (z)	0/5 (k)	5
United Kingdom	0/10 (ff)	5	5
United States	5/15 (g)	0	10
Uruguay (gg)	15	0/15 (k)	15
Uzbekistan	5/15 (c)	0/10 (k)	10
Vietnam	10/15 (d)	10	10/15 (q)
Yugoslavia (u)	5/15 (d)	10	10
Zimbabwe	10/15 (d)	10	10
Nontreaty countries	19	20	20 (x)

- (a) The lower rate applies if the recipient of the dividends is a company that owns at least 10% of the payer.
- (b) The lower rate applies if the recipient of the dividends is a company that owns at least 15% of the payer.
- (c) The lower rate applies if the recipient of the dividends is a company that owns at least 20% of the payer.
- (d) The lower rate applies if the recipient of the dividends is a company that owns at least 25% of the payer.  
Under the Ireland treaty, if Ireland levies tax at source on dividends, the 0% rate is replaced by a rate of 5%.

- (e) The lower rate applies if the recipient of the dividends is a company that owns more than 30% of the payer.
- (f) The lower rate applies to royalties paid for copyrights, among other items; the higher rate applies to royalties for patents, trademarks and industrial, commercial or scientific equipment or information.
- (g) The lower rate applies if the recipient of the dividends is a company that owns at least 10% of the voting shares of the payer.
- (h) The lower rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.
- (i) The lower rate applies to cultural royalties.
- (j) This rate applies if the recipient of the dividends is a company that owns at least one-third of the payer.
- (k) The 0% rate applies to among other items, interest paid to government units, local authorities and central banks. In the case of certain countries, the rate also applies to banks (the list of exempt or preferred recipients varies by country). The relevant treaty should be consulted in all cases.
- (l) The 0% rate applies to royalties paid for, among other items, copyrights. The 10% rate applies to royalties paid for patents, trademarks and for industrial, commercial or scientific equipment or information.
- (m) The 20% rate applies if the recipient of the interest is not a financial or insurance institution or government unit.
- (n) The lower rate applies to know-how; the higher rate applies to copyrights, patents and trademarks.
- (o) The 10% rate applies if, on the date of the payment of dividends, the recipient of the dividends has owned at least 25% of the share capital of the payer for an uninterrupted period of at least two years. The 15% rate applies to other dividends.
- (p) The lower rate applies to royalties paid for the following: copyrights; the use of or the right to use industrial, commercial and scientific equipment; services comprising scientific or technical studies; or research and advisory, supervisory or management services. The treaty should be checked in all cases.
- (q) The lower rate applies to know-how, patents and trademarks.
- (r) The lower rate applies to certain dividends paid to government units or companies.
- (s) The 0% rate applies if the beneficial owner of the dividends is a company that holds directly at least 25% of the capital of the payer of the dividends for at least one year and if the dividends are declared within such holding period. The 5% rate applies to dividends paid to pension funds or other similar institutions operating in the field of pension systems. The 15% rate applies to other dividends.
- (t) Because the rate under the domestic law of Poland is 19%, the treaty rate of 20% does not apply.
- (u) The treaty with the former Federal Republic of Yugoslavia applied to the Union of Serbia and Montenegro before the division of the union in 2006. It is not clear whether the treaty will apply to the separate countries of Serbia and Montenegro after the split. It seems more likely that Serbia will be viewed as the successor country.
- (v) The lower rate applies to fees for technical services.
- (w) The 10% rate also applies to fees for technical services.
- (x) The 20% rate also applies to certain services (for example advisory, accounting, market research, legal assistance, advertising, management and control, data processing, search and selection services, guarantees and pledges and similar services).
- (y) The rate is 10% if Switzerland imposes a withholding tax on royalties paid to nonresidents (currently, Switzerland does not impose such a tax).
- (z) The lower rate applies if the owner of the dividends is the government or a government institution.
- (aa) The 5% rate applies to interest paid to banks and insurance companies and to interest on bonds.
- (bb) Because the rate under the domestic law in Poland is 20%, the treaty rate of 22.5% does not apply.

- (cc) The lower rate applies if the recipient of the dividends is a company that owns either of the following:
  - At least 25% of the payer; or
  - At least 10% of the payer, provided the value of the investment amounts to at least to € 500,000 or its equivalent.
- (dd) The treaty rate is 15% for all types of interest. However, under a most-favored-nation clause in a protocol to the treaty, the 15% rate is replaced by any more beneficial rate agreed to by Chile in a treaty entered into with another jurisdiction. For example, under Chile's tax treaty with Spain, a 5% rate applies to certain types of interest payments, including interest paid to banks or insurance companies or interest derived from bonds or securities that are regularly and substantially traded on a recognized securities market.
- (ee) The general treaty rate for royalties is 15%. However, under a most-favored-nation clause in a protocol to the treaty, the 15% rate is replaced by any more beneficial rate agreed to by Chile in a treaty entered into with another jurisdiction. For example, under Chile's tax treaty with Spain, the general withholding tax rate for royalties is 10%.
- (ff) The 0% rate applies if the beneficial owner of the dividends is a company that holds at least 10% of the share capital of the payer of the dividends for an uninterrupted period of at least two years.
- (gg) The treaty has not entered into force yet.

## Tax and investment incentives

Polish law provides for corporate income tax incentives, such as those granted to entities operating in Special Economic Zones (SEZs). In principle, companies operating in SEZ may enjoy tax holidays, which involve tax exemption from corporate income tax depending on the amount invested in the SEZ or the labour costs of newly created job places. Benefiting from tax exemption is possible only if the investor obtains a special permit issued by the SEZ authorities. Regulations applicable to a particular SEZ specify the minimum investment required and the number of employees that must be hired to benefit from the tax exemption.

Starting from April 2005 shared services centres providing such services as accounting, auditing, bookkeeping and call centres might be located in SEZs and consequently benefit from corporate tax exemption. In case of large companies the tax exemption equals up to 50% of the investment expenditures or up to 50% of two years gross labour costs of newly created job places. For SMEs these limits are increased by 20 percentage points for small enterprises and 10 percentage points for medium enterprises.

## Transfer pricing

Poland has implemented transfer pricing rules which typically operate by reference to the arm's length principle. Where one individual or corporate entity participates (directly or indirectly) in the management or control of, or holds at least 5% of shares in another corporate entity, and the entities do not comply with the arm's length principle, cross border transfer pricing restrictions may be applied. The restrictions

are also applicable when another individual or corporate entity takes part (directly or indirectly) in the management or control of, or holds stocks in, these entities.

The share is calculated in the following way. If an entity A holds a certain share in the capital of an entity B, and the entity B holds the same share in the capital of an entity C, then the entity A holds an indirect share of the same size in the capital of the entity C; if these percentages differ, the indirect share shall be deemed to be of the smaller size.

In such cases, the tax authorities may substitute transaction prices for market prices based on the following methods: comparable uncontrolled price method, resale price method, reasonable margin (cost plus) method, or transaction profit methods. Poland follows the OECD's Transfer Pricing Guidelines, including formal documentation requirements for transactions with related companies and a specific penalty regime for transfer pricing adjustments. Under these requirements, the tax authorities may request taxpayers to submit transfer pricing documentation within seven days. The requirement to prepare documentation also applies to transactions in which payment is made directly or indirectly to an entity whose residence, registered office or place of management is situated in a territory or country that pursues harmful tax competition practices (so-called "tax havens"), even if the entity is not a related party. The Minister of Finance published a list of countries and territories pursuing harmful tax competition policies. This list mainly includes countries commonly referred to as tax havens.

As the deadline for submitting the documentation is short (seven days), from a practical viewpoint taxpayers should prepare it when the transaction is being carried out. Failure to comply with the reporting requirement will attract a penalty rate of tax. If the tax authorities or tax inspection authorities assess a taxpayer's income at an amount higher (or loss at an amount lower) than that declared by the taxpayer in connection with a transaction, and the taxpayer does not submit the required documentation, the difference between the income declared by the taxpayer and that assessed by the tax authorities will be taxable at a penalty rate of 50%.

As of 1 January 2006, APAs are available in Poland. Under the Polish rules, three types of APA are possible:

- ▶ unilateral agreement;
- ▶ bilateral agreement, and
- ▶ multilateral agreement.

The main benefit for the taxpayer in obtaining APA is the confirmation by the tax authorities of the methodology used to calculate transfer price and its application in the transaction. If the APA is concluded for a particular transaction, the tax authorities will be obliged to accept the methodology selected by the taxpayer and

approved by the APA. APAs in Poland are granted for a maximum period of 3 years with the possibility of extension for additional 3 years. They may concern a planned transaction, which will be concluded after submitting an application for the APA or a transaction which has already been concluded and is currently in progress.

The Polish APA regulations do not limit the value of the transaction to be covered by the APA. However, in order to submit an application for the APA, the taxpayer will have to pay a fee generally amounting to 1% of the transaction value. However, fee limits have been set forth in the Polish APA regulations and they are as follows:

- ▶ for a unilateral APA the fee cannot be lower than PLN 5,000 (about € 1,250) and cannot exceed PLN 50,000 (about € 12,500);
- ▶ for a bilateral APA the fee cannot be lower than PLN 20,000 (about € 5,000) and cannot exceed PLN 100,000 (about € 25,000);
- ▶ for a multilateral APA the fee cannot be lower than PLN 50,000 (about € 12,500) and cannot exceed PLN 200,000 (about € 50,000).

## Rates

The standard corporate income tax rate is 19%. If a taxpayer's tax year is different from the calendar year, the start of the tax year determines what tax rate will be applicable during the entire tax year.

### Returns and payments

An annual tax return must be filed and any tax due paid by the end of the third month of the following tax year. Monthly advance payments are required, however starting from 1 January 2007 no monthly returns are required. In certain circumstances, a company can benefit from the simplified declaration procedure.

Fines and penalty interest can be imposed (at an annual rate of 14% as at publication date) for failure to comply with the above requirements.

## 4.2. Personal Income Tax

Individuals who are domiciled (resident) in Poland are subject to tax on their worldwide income.

Under the revised law (in force since 2007), an individual is deemed to be resident in Poland if:

- ▶ his centre of vital interests is in Poland, or
- ▶ he stays on the territory of Poland for more than 183 days in the tax year.

Limited taxation (i.e. on Polish source income only) applies to those individuals who are not domiciled (resident) in Poland.

Income tax is payable on most sources of income including cash and in-kind benefits which are taxable as salary. One of the most important exceptions are relocation costs, which may be reimbursed at levels of up to twice the person's monthly salary in the month of relocation, which is tax free. Interest income from personal, i.e. non-business, bank accounts and income from dividends are subject to a 19% withholding tax and are not subject to further taxation. The above flat rates are applied unless a double tax treaty provides for a reduced tax rate or excludes Poland's right to tax. In order to benefit from the treaty regulations, an individual must however provide the interest/dividend payer with a certificate of foreign residence. Capital gains from sale of shares are also subject to 19% tax, while those earned from disposal of other assets may be subject to tax as normal income. However, there are some exceptions and exemptions, including sale of movable held for longer than six months being free of tax. In case of sale of real estate, income (proceeds less costs) is taxable at 19%, unless specific exemption applies (e.g. to those held for more than five years).

The standard tax brackets for 2008 are as follows:

#### Personal income tax rates

Tax assessment basis in PLN	Tax rate
up to 44,490	19% of assessment basis minus 586.85
44,490 to 85,528	7,866.25 + 30% of amount exceeding 44,490
over 85,528	20,177.65 + 40% of amount exceeding 85,528

Note: Cumulative tax is shown net of the annual tax credit of PLN 586.85 (see Deductions and exemptions).

For some individuals e.g. the self-employed, members of civil partnerships a flat tax at 19% rate is applicable if certain conditions are met.

As of 2009 a change of the binding personal income tax rates and brackets is to take place. According to the plan, from 1 January 2009 income up to PLN 85,528 would be taxed with a rate of 18%, whereas above this amount the tax rate of 32% would apply. A standard tax credit of PLN 556.02 would also be available.

## Special rules for expatriates

Foreign nationals with limited liability to Polish tax will be taxable solely on income received in connection with the performance of duties in Poland or from Polish sources. For those who qualify for limited tax liability, income from board duties (under certain conditions) and Polish Civil Code contracts such as personal services contract, specific task agreement may be taxed at a flat rate of 20%. In such cases, no deductions are available.

## Social security taxes

Social security contributions for pension and disability are made by the employee and by the employer only up to an annual cumulative earnings limit. In 2008 the limit is PLN 85,290. The other social security contributions (2.45% to be paid by the employee and 0.67%-3.60% to be paid by the employer) are made irrespectively of the earnings amount. See below social security rates details.

### Social security contributions as a percentage of the calculation base and their sources of financing [%]

Social security contribution	Contribution as a percentage of the calculation base	Financing by	
		Employer	Employee
Pension	19.52	9.76	9.76
Disability	6.00	4.50	1.50
Sickness	2.45		2.45
Industrial injuries	0.67-3.60*	0.67-3.60	
Total in 2008	28.64-31.57	14.93-17.86	13.71

\* The level of contribution to industrial injury insurance is generally established yearly. The level of contribution ranges from 0.67 to 3.60 percentage, depending on the type of business.

In addition to the above social security contributions, the employer shall pay 2.45% of the calculation base to the Labour Fund and 0.1% of the calculation base to the Employee Benefit Guarantee Fund.

### Healthcare contribution

The healthcare contribution amounts to 9% (in 2008) of the employment income decreased by the employee social security contribution assessed. The healthcare contribution may be deducted from tax on employment income up to 7.75% of its calculation basis. Consequently, the remaining part of the healthcare contribution (1.25% of the assessment basis) is left as an additional non-deductible cost (decreasing the after-tax income).

In general, for individuals subject to personal services contracts, contributions are computed in a similar way as for employment income, i.e. are payable at the same rates, allocated between the service provider and the principal as between employees and employers and subject to the same limits, or uncapped as appropriate. In certain cases, it may be possible to avoid payment of sickness and accident insurance. If the personal service contract is concluded with an employer, social security is payable as in the case of an employment contract.

Where an individual concluded a contract with a third party and already pays contributions in respect of e.g. an employment contract, payment of contributions for a personal service contract is voluntary unless the work is performed for the ultimate

benefit of the original employer. However, in general the remuneration from the full time employment contract must be PLN 1 126 per month or higher (in 2008).

As of 1 May 2004, after Poland accession to the EU, the European social security regulations have started to apply. The general rule involves contributing to the social security system of the country where the work is actually performed.

## Deductions and exemptions

A deduction of PLN 111.25 per month is available in respect of expenses associated with earning employment income. Those with more than one employment are entitled to an increased deduction up to 1.5 times the maximum. An annual tax credit of PLN 586.85 is available to all individuals who have a taxable presence in Poland. Married couples are entitled to the allowance, regardless of whether they are taxed separately or jointly. Parents raising children may benefit from an annual tax allowance of PLN 1 173.70 (in 2008) per child.

The individuals engaged under Polish Civil Code contracts (but not expatriates with limited tax liability or those with management contracts) may deduct 20% of their income as costs of earnings, irrespective of whether these expenses are actually incurred.

Higher deductions are available to individuals engaged under Polish Civil Code contracts if their actual expenses are greater than 20%. Certain activities, e.g. exploiting a copyright, attract a 50% deduction.

## Returns and payments

Polish employers must withhold tax on their employees' taxable salary and make payments to the tax office by the 20th day of the month following the month of payment. However, the employers may not be required to withhold a tax advance on income paid to employees for their work abroad if this income is or is to be taxed outside of Poland. Collection of advance is then to be continued at an employee's request. In certain cases, employees may select for an employer to file an annual tax return and settle any outstanding liability through an adjustment to the subsequent year's withholdings.

Self-employed individuals who work in Poland, or expatriates and paid by a foreign entity, are personally responsible for monthly reconciliation of tax advances. As a rule, the deadline is the 20th day of the next month. An annual return must normally be filed (as well as the tax due be paid) by 30 April of the following year, stating all sources of income and showing any additional tax due.

Self-employed individuals benefiting from a flat tax rate are obliged to file the annual return by 31 January or 30 April, depending on the method of taxation that is applicable to their income. Separate annual tax return should be filled with respect to capital gain income (e.g. sale of shares). Married couples may file joint returns, provided (among others) they are both tax residents in Poland. Then, their tax liability is calculated on the half of the total income and multiplied by two.

Expatriates who qualify for limited tax liability do not have to report income taxed at 20% flat rate in their annual return as this is the final tax liability.

## Disclosure requirements

The requirements concern those entities that benefit from work or services provided by individuals (predominantly foreigners) without a domicile in Poland.

In the situation where the remuneration of such persons is paid by nonresidents within the meaning of the currency law (e.g. by a foreign company), the Polish entity using such work or services will be required to collect, prepare and disclose information concerning the remuneration for work or services provided to it.

The requirement will arise if:

- ▶ in connection with tax treaties and other international agreements ratified by Poland, it may affect the tax obligation or tax liability of persons receiving the remuneration;
- ▶ a non-resident participates, directly or indirectly, in the management or control of an entity subject to the duty of disclosure, or holds an interest in such an entity's share capital, to which at least 5% of all voting rights are attached.

The above information (ORD-W1) should be disclosed without a prior request from the tax authorities by the last day of the month following the month in which the non-resident started providing services (working).

## 4.3. Value Added Tax (VAT)

### General

Value added tax was launched in Poland in 1993. The first attempts to bring the country's VAT system into line with Community regulations were made prior to Poland's entry into the European Union. The final step to ensure compliance was taken on 1 May 2004, when a new VAT Act came into force. However, based on the Treaty of the Accession, there are some derogations as far as the harmonization is concerned.

## Scope of the VAT

Under the Polish VAT regulations, VAT applies to the following transactions:

- ▶ supply of goods and services made in Poland for consideration. The supply of goods includes handing over by a taxpayer of business-related goods for non business-related purposes, e. g. donations. However, the supply of samples, small gifts and printed advertising and informational materials is excluded from the VAT-able events;
- ▶ exportation of goods outside the EU;
- ▶ importation of goods from outside the EU;
- ▶ intra-Community acquisition of goods (from the EU) effected for consideration in Poland, inclusive of the movement of goods between different Member States within the same business;
- ▶ intra-Community supply of goods (to the EU) inclusive of the movement of goods between different Member States within the same business.

Activities which are outside the scope of VAT include sale of a business or a branch (division) that prepares its balance sheet independently.

## Taxpayers

The taxpayers are legal entities, organizational units without the status of legal persons and individuals that independently carry on any business activity, regardless of the purpose or the effect of such activity. The use of word 'independently' means that employees under contracts of employment are excluded from tax. Moreover, other persons rendering services under 'ad-hoc' agreements are also outside the scope of VAT provided they are bound to the employer by a contract of employment or by any other legal ties creating a legal relationship with regard to the working conditions, remuneration and employer's liability.

A VAT payer is also an entity which is the recipient of the services rendered or goods delivered by taxpayers having their registered seat, fixed place of business or place of residence abroad.

A VAT payer is also an entity:

- ▶ performing intra-Community supply of new means of transport;
- ▶ that makes intra-Community acquisition in Poland, or
- ▶ performing distance sales to Polish customers in excess of the threshold of PLN 160,000.

Public bodies that act within the scope of their activities are not considered as taxpayers.

## VAT registration

Entities that perform VAT-able activities in Poland are obliged to register for VAT before undertaking their first taxable activity.

Upon VAT registration they gain the status of the active VAT payers.

Taxpayers who are eligible for VAT exemption with no right to deduct input VAT (activity-or entity-related) may register for VAT. If they do, they receive confirmation from the tax office that they are registered as exempt VAT payer. Taxpayers must notify in advance their intention of making intra-Community transactions to the Polish tax authorities. On the basis of this notification, the entity is registered as an EU VAT payer. Taxpayers whose net amount of taxable sales did not exceed PLN 50,000 in the previous year are exempt from VAT. Similarly, taxpayers commencing to perform taxable sales during the tax year are exempt from VAT if the expected net amount of their taxable sales in a corresponding fraction does not exceed PLN 50,000. However, taxpayers can opt for taxation provided they notify the relevant tax office of their intention.

## Fiscal representative

VAT payers that have no registered seat, fixed place of business or place of residence in Poland or other EU country are obliged to appoint a fiscal representative.

The fiscal representative is jointly liable with the business it represents for all Polish Tax liabilities.

## The place of supply rules

The place of supply with respect to goods is considered the following:

- ▶ the place where the goods are at the time of dispatch or transport to the purchaser;
- ▶ the place of installation or assembly;
- ▶ the place where the goods are at the time of delivery (in case they are not dispatched or transported);
- ▶ as regards the delivery of goods on ship, plain or train boards - the place where the passenger transport starts;
- ▶ the country of importation.

The place of intra-Community acquisition is in principle the place where the transport or dispatch ends.

In principle, the place of supply of services is the place where the supplier established his business or has a fixed place of business or the place of residence. However, there are special rules determining the place of supply of, among others:

- ▶ services connected with immovable property - the place of supply is where the property is situated;

- ▶ transportation services - the place of supply is the place where the transport takes place, having regard to distances covered;
- ▶ intangible services, e. g. consultancy, advertising, electronic services etc.
  - the place of supply is assigned to the place of establishment of the customer provided that the customer is a taxpayer established in the EU or any entity established in the third country.

### VAT rates and the taxable base

In Poland, three rates of VAT apply - the standard rate of 22%, the reduced rates of 7% and of 0%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption. As an example, the 7% VAT rate is applicable to health care related goods and hotel services.

0% supplies include exports of goods outside the European Union and intra-Community supplies of goods. In addition, exclusively within the transitional period, i.e. till 31 December 2010, the super-reduced VAT rate of 3% may be applied to foodstuffs.

Under the VAT Law some supplies are exempt (without a right to deduct input VAT), e. g. supplies of financial, educational or health care services.

The taxable base for VAT purposes is net turnover, including received subsidy, subvention and any other extra of similar nature related to supply of goods or services, decreased by the amounts of rebates and discounts.

As regards import of goods, the taxable base is the customs value increased by all customs and excise duties, including provision, packaging transportation and insurance costs incurred up to the first place of destination in Poland.

The taxable base for intra-Community acquisition of goods is the amount of payment due from the purchaser, inclusive of taxes and duties paid in connection with the goods acquisition as well as costs of provision, packaging, transportation and insurance collected by the seller.

## Tax point

### General rules

In principle, under the Polish VAT regulations the tax point arises when the goods have been released or the services have been completed. Where a transaction should be documented with a VAT invoice, the tax point is the time when such a document is issued, but no later than on the 7th day from the day the goods were released or the services completed. However, for selected supplies (e.g. electricity, telecommunications, transport, leasing, printing) the tax point is deemed to arise at a different point (usually payment deadline or payment receipt).

## Prepayments

The tax point for an advance payment or prepayment received before the goods are released or services completed is the date of payment receipt.

## Exported goods

As a rule, the tax point for exported goods arises upon confirmation by customs that the goods have been transported outside the Community.

## Imported goods

In general, the tax point for imported goods is the date when the customs debt arises.

## Intra-Community acquisition

The tax point for an intra-Community acquisition of goods is the 15th day of the month following the month in which the supply of goods subject to intra-Community acquisition occurred. However, if the supplier issues an invoice prior to this deadline, the tax point arises when the invoice is issued.

## Intra-Community supply

The tax point for an intra-Community supply of goods is the 15th day of the month following the month in which the supply occurred. If prior to this deadline a taxpayer issues an invoice, the tax point arises when the invoice is issued.

# Recovery of input VAT

## General rules

A taxpayer may recover input tax, i.e. the VAT charged on goods and services supplied to him and used for taxable activity purposes. Input tax is generally recovered by being deducted from output tax, i.e. the VAT charged on the supplies made.

Input tax includes:

- ▶ VAT charged on goods and services supplied within Poland;
- ▶ VAT paid on imports;
- ▶ VAT self-assessed on the intra-Community acquisitions of goods;
- ▶ VAT self-assessed on the purchase of goods and services taxed under the reverse charge.

Input tax may not be recovered, e. g. on the purchase of fuel, diesel or gas used for passenger cars or on restaurant services. In the case of purchase or lease of a passenger car, partial recovery of input VAT is allowed (60% of input VAT but not more than PLN 6,000). Input tax directly related to making exempt supplies is generally not recoverable (but it can be, under certain conditions, deducted as

a cost for corporate income tax purposes), except for input tax related to financial services rendered to entities established outside the EU.

### Partial recovery

If a taxpayer makes both exempt and taxable supplies and it cannot allocate its input VAT accordingly, it cannot recover input VAT in full.

For determining the amount of VAT that may be recovered in this situation, the taxpayer calculates a proportion representing the ratio of turnover made on taxable supplies in the total turnover. The ratio is subject to correction at the end of the tax year. In connection with this, capital goods adjustments are required to be made with respect to fixed assets (adjusted for a period of five years) and immovable property (adjusted for a period of ten years).

### Refund of VAT

Excess of input VAT may be carried forward against future VAT liabilities or refunded. Refunds are generally made within 180 days.

Where a company performs activities taxed at the reduced rates or are zero-rated or if the excess VAT is due to fixed asset purchases, the refund period is accordingly reduced to 60 days. Under certain conditions the above deadlines can be shortened up respectively to 60 and 25 days.

Under certain circumstances (investment purchases), it is also possible to claim an advance VAT refund, i.e. before performing the first VAT-able activity.

### VAT returns, EC Sales listing and INTRASTAT reporting

As a rule VAT returns are filed on a monthly basis (or quarterly but only for taxpayers whose sales do not exceed € 800,000).

VAT returns and full payment of the VAT due must be made by the 25th day of the month following the month in which the tax point arose (or the 25th of the first month of the following quarter). In addition, taxpayers who supply services for the benefit of individuals not involved in business activity are obliged to maintain and operate cash registers under special rules.

The taxpayers who trade in goods with other EU countries must also complete statistical reports (INTRASTAT) on a monthly basis and EC Sales and Purchase Lists (recapitulative statements) on a quarterly basis.

Separate statistical reports are required for intra-Community acquisitions (INTRASTAT Arrivals) and for intra-Community supplies (INTRASTAT Dispatches). The submission deadline is the 10th day following the month in which the given transaction should be declared (i.e. month of physical movement of goods). EC recapitulative statements

must be submitted by the 25th day of the month following the end of the quarter in which the tax point arose with respect to the intra-Community acquisitions or intra-Community supplies.

Special procedures under the Polish VAT regulations, special rules apply with respect to:

- ▶ small entrepreneurs;
- ▶ flat-rate farmers;
- ▶ supply of tourist services;
- ▶ supply of second-hand goods, works of art, collectors' items and antiques;
- ▶ gold investment;
- ▶ tax refund for tourists;
- ▶ foreign entities supplying electronic services to non-taxpayers within the EU.

## 4.4. Customs duty and excise duty

### Customs duty

#### Introduction

On 1 May 2004 Poland joined the European Union and became part of the Customs Union. This implied the abolition of any physical and fiscal barriers existing between Poland and the other EU member states (e.g. customs controls and duties).

The classification of transactions involving the transfer of goods between Poland and the other EU member states changed for tax purposes from import and export into respectively intra-Community acquisitions and intra-Community supplies.

Customs arrangements ceased to be applicable to such transactions as they started to be treated as intra-Community trade. Moreover, on 1 January 2008 Poland joined the Schengen zone, which means that all border posts and checks between Poland and other states which form the Schengen area have been removed, thus enabling a free movement of goods without customs checks.

At the same time, transfers of goods between Poland and non-EU countries have retained their import-export character. Nonetheless, they are now subject to uniform Community customs rules, as on 1 May 2004 almost all Polish customs provisions were replaced with relevant EU regulations, including the Community Customs Code, the Community Customs Tariff and the implementing provisions. As a result, the import and export of goods are subject to the same rules in Poland as in any other EU member state.

## Local practice

As a result of the introduction of the Community Customs Tariff in Poland the overall level of duty rates has been significantly reduced. Any free-trade agreements concluded by Poland were terminated prior to accession to the EU and replaced with the free-trade agreements concluded by the EU and the Generalised System of Preferences (GSP), under which reduced duty rates are applicable to goods imported from the under-developed and least developed countries (owing to the GSP, goods coming from some 150 countries benefit from preferential customs treatment). Also, any decisions on tariff quotas or customs suspensions applicable to goods imported to Poland are now taken at Community level.

Nonetheless, technical and procedural aspects of the customs system are still regulated by Polish provisions. This often has a significant effect on the traders' business (e.g. release for free circulation of some goods is still not possible outside the customs offices' working hours in Poland, simplified customs arrangements require separate authorisations). It should also be noted that the way Polish customs authorities apply customs law is somewhat different than in other EU member states, e.g. Polish customs administration aims at performing extensive physical checks of goods and is more inclined to a strict interpretation of Community customs law.

## Tariff databases

Information on duty rates, tariff preferences and quotas, customs suspensions and anti-dumping measures applicable to goods imported to Poland can be found in the TARIC (the Integrated Community Tariff) - an online customs tariff database.

The Polish Ministry of Finance (Customs Department) maintains also a Polish tariff browser - ISZTAR - which integrates data from the TARIC (goods nomenclature, duty rates, restrictions, tariff quotas, tariff ceilings, suspensions) and national data (VAT, excise duty, national restrictions and non-tariff measures not integrated in the TARIC).

## AEO

On 1 January 2008 the implementing provisions for the Authorised Economic Operator (AEO) concept came into effect (i.e. from that date traders can apply for an AEO certificate). This initiative is intended to enable trusted traders to have easier admittance to customs simplifications and to benefit from simplifications in respect of physical and document-based checks (e.g. less control, prior notification and choice of place of control).

In order to obtain an AEO certificate, traders need to undergo an audit to verify whether they fulfil the criteria of customs compliance, appropriate record-keeping standards, financial solvency and whether they maintain appropriate security and safety standards. Importantly, an AEO certificate granted in one EU member state is recognised in the remaining member states.

AEO guidelines and self-assessment forms used by the Polish customs authorities can be found on the Polish Ministry of Finance website ([www.mf.gov.pl](http://www.mf.gov.pl)). Even though traders display interest in the AEO certificates, the Polish customs administration is still developing their approach to the AEO certification process.

## Excise duty

### Introduction

Since 1 May 2004, Polish excise duty law is part of the harmonised Community excise duty system. However, Poland charges excise duty not only on the products specified in the EU legislation, i.e. on mineral oils, manufactured tobacco and alcohol and alcoholic beverages (these products are referred to as 'harmonised excisable products' in the Excise Duty Act). Under the Excise Duty Act, excise duty is also charged on other products, e.g. passenger cars, which are not subject to excise duty under the EU provisions (these products are referred to as 'non-harmonised excisable products' in the Excise Duty Act). Additionally, it should be noted that the scope of the Polish 'harmonised' excise duty system is wider than under the EU legislation and covers, for instance, lubricants.

### Taxable activities and payment of excise duty

Excise duty is charged on:

- ▶ production of harmonised excisable products and release of such products from the tax warehouse;
- ▶ supplies of excisable products in Poland;
- ▶ export and import of excisable products;
- ▶ intra-Community supplies and acquisitions of excisable products;
- ▶ shortages and losses of harmonised excisable products;
- ▶ other activities treated as sale of excisable products under the Excise Duty Act.

Harmonised excisable products are subject to special rules with respect to their production, holding and movement:

- ▶ excise duty on harmonised excisable products is chargeable in the country where the goods are released for consumption;
- ▶ production of harmonised excisable products can take place only in tax warehouses;
- ▶ production and holding of harmonised excisable products can be performed under excise duty suspension arrangements;
- ▶ excise duty suspension procedure can also be applied to the movement of products, provided that the products are moved between tax warehouses located within the Community or dispatched to a registered or non-registered trader operating in another EU member state.

Generally speaking, excise duty is payable by producers and importers of excisable products and traders effecting intra-Community acquisitions of excisable products. The tax base for excise duty purposes is defined as:

- ▶ net amount due from the customer (i.e. net of VAT and excise duty);
- ▶ customs value together with customs duties - in the case of imported products;
- ▶ amount due to the seller - in the case of intra-Community acquisitions.

Excise duty rates are expressed either as a:

- ▶ fixed amount per number of units of excisable products (e.g. hl of pure alcohol or hl of product) - specific rate;
- ▶ both a fixed amount per number of units of excisable products and a percentage of the maximum retail price (in the case of cigarettes) - mixed rate;
- ▶ percentage of the value of excisable products (in the case of passenger cars) - *ad valorem* rate.

Export of excisable products is exempted from excise duty (except for excisable products carrying fiscal marks).

In the case of harmonised excisable products (i.e. mineral oils, manufactured tobacco, alcohol and alcoholic beverages), excise duty is paid in instalments on a daily basis and a final reconciliation is made on a monthly basis. In the case of non-harmonised excisable products, specific rules relating to the payment of tax apply.

Traders effecting export or intra-Community supplies of excisable products excise duty paid are entitled to a refund of excise duty.

### New Excise Duty Act

The Polish Ministry of Finance is currently working on a new Excise Duty Act (only working drafts of the act are available).

One of the key changes to the Polish excise duty system that the new Excise Duty Act is intended to introduce is bringing Polish legislation in line with Community provisions in respect of the excise duty treatment of electricity. Poland has failed to meet its obligations under the Energy Directive (Directive 2003/96/EC) and did not align its electricity taxation system with the Community framework by 1 January 2006 (under EU law, excise duty on electricity is chargeable at the time of supply by the distributor or redistributor, making them liable to pay the tax. In Poland, however, excise duty on electricity is charged to the producer at the time of supply).

In November 2006, the Commission formally opened infringement proceedings against Poland by sending a letter of formal notice. Poland's reply was not satisfactory and on 23 March 2007 the Commission decided to launch the second stage of the infringement

proceedings by sending a reasoned opinion to Poland. On 23 July 2007 the Commission decided to refer the case to the European Court of Justice (case C-475/07).

Moreover, the new Excise Duty Act is intended to introduce a new scope for the taxation of energy products (e.g. coal and animal and vegetable oils will be subject to excise duty) and a new duty rate structure for cigarettes.



## 5. Human capital

### 5.1. The Polish Labour Code

Polish labour law issues are mainly regulated in the Labour Code.

There are also separate acts on, for example, group redundancies, trade unions, and employing temporary workers. Importantly, other legal sources that apply to employees (i.e. collective bargaining agreements and individual contracts of employment) must never worsen the situation of the employee as it stands under the Labour Code.

The Labour Code specifies the rights and duties of all employees, regardless of the category of work and the legal basis of the employment relationship. This does not apply to workers rendering services on the basis of civil law contracts (i.e. service contracts).

### 5.2. Legal basis of the employment relationship

Polish law provides for the following types of employment relationship:

- ▶ employment contract;
- ▶ appointment, election, nomination and co-operative contracts of employment.

The employment contract is the most common basis of employment relationship.

### 5.3. Employment contract

An employment contract should be concluded in writing. If not, the type of the employment contract and its conditions should be confirmed on the first day of performing work at the latest. An employment contract must specify its parties, type, date of its execution and the conditions of the work and remuneration, in particular:

- ▶ the type of work, the place of its performance and the date of its commencement;
- ▶ the remuneration corresponding to the type of work with an indication of its components;

- ▶ working hours.

Apart from the contract, written information about the basic conditions of employment must be given to the employee during the first seven days of work.

An employment contract can be concluded for:

- ▶ an indefinite period;
- ▶ a definite period (only two successive fixed-term contracts can be concluded between the same employee and employer);
- ▶ the time required to complete specific work;
- ▶ the period of absence of another employee.

Each of the contracts mentioned above may be preceded by an employment contract for a trial period (no longer than three months).

## 5.4. Termination of an employment contract

In general, an employment contract can be terminated:

- ▶ by mutual agreement of the parties;
- ▶ upon declaration by one of the parties with observance of the period of notice (termination by notice);
- ▶ upon declaration by one of the parties without observance of the period of notice (termination without notice, possible only in the cases specified in the Labour Code);
- ▶ upon expiration of the period for which it was concluded, or upon completion of the task it was concluded for.

Declarations of both parties on the termination of an employment contract (with or without notice) must be made in writing. Any declaration by an employer of termination of an employment contract concluded for an indefinite period, or of termination of an employment contract without notice of termination, should provide reasons for the termination of the contract.

### Termination of an employment contract by notice

Either party may give notice of termination of an employment contract concluded for a trial period, for an indefinite period or for the period of absence of another employee. Additionally, where an employment contract is concluded for a definite period longer than six months, the parties may provide for an earlier termination of this contract with a two-week notice period.

The period of notice for an employment contract concluded for a trial period is:

- ▶ three working days if the trial period does not exceed two weeks;
- ▶ one week if the trial period is longer than two weeks;
- ▶ two weeks if the trial period is three months.

The period of notice for an employment contract concluded for an indefinite period depends on the duration of employment with a given employer and is:

- ▶ two weeks if the employee has been employed for less than six months;
- ▶ one month if the employee has been employed for at least six months but not longer than three years;
- ▶ three months if the employee has been employed for at least three years.

The period of notice for an employment contract concluded for the time of absence of another employee is three working days.

If the employee occupies a post involving financial liability for property entrusted to him, the parties may agree in the contract of employment that in the event of its termination the period of notice shall be:

- ▶ one month if the employee has been employed for less than six months;
- ▶ three months if the employee has been employed for at least six months.

It is also possible to provide for longer notice periods in the employment contract if the longer periods of notice are more favourable to the employee.

## Termination of an employment contract without notice

An employer may terminate an employment contract without notice due to the fault of an employee who:

- ▶ seriously violates the basic duties of an employee;
- ▶ commits an offence during employment, which renders impossible his further employment in his/her post, if the offence is obvious (it is beyond doubt that the offence has been committed), or has been established by an unappealable court judgment;
- ▶ loses his/her licence necessary for the performance of duties connected with his/her post.

Additionally, an employer may terminate an employment contract without notice if, for example, the employee is unfit to work due to illness:

- ▶ for longer than three months, if the employee has been employed by the employer for less than six months;
- ▶ for longer than the period of receiving sick pay and welfare benefits, if the employee has been employed by the employer for at least six months.

An employee may also terminate an employment contract without notice in cases strictly defined by the Labour Code.

## **Rights of the employee in the case of an unlawful or unjustified termination of an employment contract by an employer**

In general, in the case of an unlawful or unjustified termination of an employment contract by an employer, the employee is entitled to claim from the Labour Court:

- ▶ reinstatement on former conditions, or
- ▶ due compensation.

However, the final decision as to which of these two employee rights shall be applied in an individual case belongs to the Court.

## **5.5. Remuneration for work**

The minimum remuneration for work for full-time employees is specified by the act on minimum remuneration and the Council of Ministers' regulations. The general rule is that an employee cannot be offered lower remuneration than that specified by the law. For example, the minimum monthly remuneration for the year 2008 has been fixed as PLN 1,126. Remuneration in Poland is settled in its gross amount, i.e. prior to the payment of any taxes, social security or other mandatory payments.

According to the provisions of the Labour Code, conditions governing the remuneration for work and the granting of other benefits connected with work are fixed in collective bargaining agreements or in the remuneration regulations. Any employer employing at least twenty employees who are not covered by a collective bargaining agreement must set out the conditions of remuneration for work in written remuneration regulations.

## **5.6. Workplace regulations**

An employer who employs at least twenty employees is obliged to introduce workplace regulations. These regulate the organisation of the work process and the rights and duties of the employer and employees.

## 5.7. Working time

In general, working time may not exceed eight hours per day and an average of forty hours per week in a five-day week on average within a reference period not exceeding four months. The total weekly working time with overtime hours cannot on average exceed 48 hours in a reference period.

The Labour Code includes many provisions modifying this general rule, depending on the system of working hours used by an employer.

## 5.8. Overtime work

Work performed in excess of working time applied to a given employee constitutes overtime work. Such work is permissible only in the case of:

- ▶ the need to carry out rescue operations for the protection of human life or health, or for the protection of property or the environment;
- ▶ the special needs of the employer (the most typical situation when overtime work occurs);
- ▶ employees working overtime are entitled to receive overtime pay amounting to:
  - 100% of remuneration for overtime work at night, on Sundays or during holidays that are not working days for the employee according to the applicable work schedule, and also for overtime work on a day off in lieu (granted in consideration for work on Sundays or during holidays that are working time for the employee according to the applicable work schedule);
  - 50% of remuneration for overtime work on any other days.

In consideration for overtime work, at the employee's request, the employer may grant time off in lieu equal to overtime to the employee. In such a case, the employee is not entitled to receive overtime pay.

Time off *in lieu* may be granted without the request of the employee.

In such a case, the employer grants time off *in lieu* by the end of the reference period at the latest, equalling overtime plus 50%, but it must not reduce the employee's remuneration due for total monthly working time. In such a case, the employee is not entitled to receive overtime pay.

Generally, while working due to the special needs of the employer, employees cannot work more than 150 hours per calendar year. An employer can establish (with trade union approval, if unions are present at the employer's enterprise) an overtime limit different from the statutory one. Its maximum length is limited by the requirement

that the total weekly working time may not on average exceed 48 hours in the reference period.

## 5.9. Vacation leave

In general, the length of leave is:

- ▶ twenty working days in every year - for the first ten years of work;
- ▶ twenty-six working days in every year - after ten years of work.

When establishing the vacation length, service for previous employers and periods of education (under rules stipulated in the Labour Code) are also cumulated.

An employee acquires the right to his first leave after one month of service in the amount of 1/12 of the statutory vacation leave to which an employee is entitled after one year of service according to the Labour Code. If an employee changes employer during a calendar year he acquires the right to leave with the new employer proportionally to the duration of his employment with the new employer in that calendar year.

## 5.10. Protection of women at work and employment of young adults

Issues connected with women's work and employment of young adults are specifically regulated by the Labour Code and secondary legislation.

## 5.11. Health and safety at work

The Labour Code and secondary legislation regulate in detail the employer's obligations connected with health and safety at work.

## 5.12. Group redundancies

Issues connected with group redundancies are specifically regulated by the provisions of the Act on Special Terms of Employment Termination for Reasons Not Concerning Employees.

The provisions of this Act relate to employers employing at least 20 employees, that simultaneously terminate, or terminate within a period of 30 days, employment contracts with a group of employees comprising at least:

- ▶ 10 employees, if the employer employs fewer than 100 employees;
- ▶ 10% of employees, if the employer employs at least 100, but fewer than 300 employees;
- ▶ 30 employees, if the employer employs 300 or more employees.

The provisions of the Act on the Special Terms of Employment Termination for Reasons Not Concerning Employees also apply in the case of the bankruptcy or the liquidation of an employer's enterprise.

## 5.13. Trade unions

Employees have the right to freely join trade unions. According to the law, at least 10 persons may establish a trade union. The employer cannot limit this right in any manner.

## 5.14. Company social fund

According to the provisions of the Act on Company Social Funds, business entities that employ at least twenty employees on a full-time basis should create a Social Fund and introduce appropriate regulations on how the money is collected and how it will be spent.

## 5.15. Foreigners

EU citizens are released from the obligation to obtain a work permit. Foreigners from the aforesaid countries and their families will have to register their stay in Poland, if it is longer than 3 months.

Non-EU citizens, as employees or board members of Polish companies, require work permits, which are granted only if an employer who intends to employ a foreigner has obtained a work permit promise (*przyrzeczenie*) and the foreigner has obtained an appropriate visa or permit to live in Poland for a limited period. Working visas are granted by the consulate in the foreigner's permanent place of residence upon presentation of the work permit promise. Having obtained the visa, it is necessary to apply for a work permit, which is the final document allowing the foreigner to take up

employment in Poland. Once the work permit is obtained, the foreigner may sign the employment contract and take up employment.

## 5.16. Temporary work

The Law on Employment of Temporary Workers allows temporary workers to be used in specific circumstances, e.g. for seasonal or periodical work, for work which cannot be performed by permanent employees on time, or for work previously performed by an absent employee. A temporary worker cannot be employed in posts in which especially dangerous work is performed. A temporary worker cannot replace an employee taking part in a strike or a worker dismissed for reasons not concerning employees.

As a rule, a temporary worker can be employed by a given employer for a period not exceeding 12 months in a period of 36 months. Temporary workers execute fixed-term employment contracts or employment contracts for the time required to complete specific work with work agencies entered in the register of employment agencies kept by the minister competent in labour matters. An employment contract with a temporary worker can be terminated earlier by either party with three days' notice. An employer who intends to use temporary workers must execute a contract with an employment agency specifying a number of issues concerning work performed by temporary workers defined in the Law on Employment of Temporary Workers. The law provides for a number of obligations of employers using temporary workers related to work safety, trade union consultation and informing temporary workers of vacancies.

## 5.17. Works councils

Employee Information and Consultation Act and The European Works Council Act are currently in force in Poland.

### Employee councils

Employee Information and Consultation Act specifies the terms of informing and consulting employees as well as electing an employee council. It applies to employers carrying on business and having at least 50 employees (until 23 March 2008, the threshold was 100 employees).

### European Works Councils

Apart from the internal employee councils as mentioned above there are also (inter-company) European Works Councils. The European Works Council Act provides for

the manner of establishing European Works Councils and the rights and obligations of European Works Councils and the employers at which such councils exist. The Act applies only to community-scale undertakings and community-scale groups of undertakings ('undertakings') which employ at least 1,000 employees in European Union Member States including at least 150 employees in at least two European Union Member States if there are connections between Poland and the undertaking, that is:

- ▶ the central management of the undertaking is based in Poland, or
- ▶ the central management has designated a representative in Poland, or
- ▶ the employing establishment of the undertaking that employs the greatest number of employees among those employed in the EU is in Poland.



## 6. Competition law

Competition law in Poland is generally governed by the Act on Combating Unfair Competition (1993) and by the Act on the Competition and Consumer Protection (2007). In order to achieve a better protection of market players a new Act on Combating of Unfair Market Practices (2007) have also been implemented.

The aim of the Act on Combating Unfair Competition is to ensure that entities operating on the market compete on a fair basis, i.e. do not undertake any acts of unfair competition. On the other hand, the general aim of the Act on the Competition and Consumer Protection is the protection of the freedom of competition. Therefore the Act of 2007:

- ▶ determines conditions for the development and protection of competition as well as the rules on protection of interests of entrepreneurs and consumers, undertaken in the public interest, and regulates rules and measures of:
  - counteracting competition restricting practices (cartels and abuse of dominant position);
  - anticompetitive concentrations of entrepreneurs and associations of thereof (mergers control);
  - practices violating collective consumer interests;

where such practices or concentrations cause or may cause effects on the territory of the Republic of Poland.

### 6.1. The Act on Combating Unfair Competition (1993)

The Act on Combating Unfair Competition regulates protection of the interests of entrepreneurs, customers and consumers against unfair competition, and prevention of unfair competition, in the public interest as well as in the interest of entrepreneurs and customers, especially consumers. The Act defines an act of unfair competition as any activity in violation of the law or good practice if it infringes or may infringe on the interests of other entrepreneurs or customers (so called: general clause). The Act contains an open list of activities deemed to be acts of unfair competition. These include especially: misleading designation of an enterprise; false or fraudulent designation of geographical origin of goods or services; misleading designation of goods or services; violation of business secrets; unfair encouragement to terminate or not to perform agreements; product imitation; imputations or dishonest praise of

goods; obstruction of market access; bribery of a person performing public duties; dishonest or unlawful advertising; organization of avalanche sales system; spamming. The Act also contains a detailed description of the above acts.

It should be stressed that the list of activities is open, so there may exist acts of unfair competition that do not appear in the list, but still violate the general clause mentioned above.

The entrepreneur whose interest was infringed as a result of the acts of unfair competition may claim:

- ▶ cessation of prohibited activities;
- ▶ elimination of the effects of prohibited activities;
- ▶ public statements of appropriate content and in proper form;
- ▶ redress of damage caused to the entrepreneur according to the general rules of civil law;
- ▶ refund of unjust benefits, and
- ▶ adjudicating of a certain amount for a specified social purpose connected with the support of Polish culture or protection of national heritage, in the case of willful acts.

Some acts of unfair competition (e.g. violation of business secrets, product imitation, misleading designation of goods or services, imputations or dishonest praise of goods) may also result in criminal liability.

In practice the application of Act on Combating Unfair Competition is often connected with implementation of another legal measures provided for by the various legal provisions, especially concerning protection of industrial property and copyrights.

## 6.2. The Act on the Competition and Consumer Protection (2007)

The Act on the Competition and Consumer Protection describes the conditions of competition development and protection, and the rules for protecting the interests of entrepreneurs and consumers in the public interest. The central government administration organ competent in the protection of competition and consumers is the President of the Office of Competition and Consumer Protection (UOKIK).

First of all, the Act prohibits agreements being entered into that prevent, restrict or distort competition on a relevant market. These agreements may in particular consist in:

- ▶ fixing, directly or indirectly, prices and other conditions of purchase or sales of products;

- ▶ limiting or controlling production or supply as well as technical development or investments;
- ▶ sharing markets of supply or purchase.

Such agreements are invalid under the law. The Act provides exemptions for prohibition of competition restricting agreements in particular situations stipulated in the Act.

The Act also forbids abusing of a dominant position by one or more entrepreneurs. The abuse of a dominant position may, in particular consist in:

- ▶ direct or indirect imposition of unfair prices, including predatory prices or prices glaringly low, significantly delayed payment terms or other conditions of purchase or sale of products;
- ▶ limiting production, supply or technical development to the detriment of contractors or consumers;
- ▶ application in similar transactions with third parties onerous or not homogenous contract terms, thus creating for these parties diversified conditions of competition.

All legal acts that are the result of abuse of a dominant position are invalid under the law.

Since Poland's accession to the EU, provisions of EU law (especially Articles 81 and 82 of the EC Treaty) apply directly. Polish competition authorities are therefore empowered to apply fully the provisions of the Treaty.

According to the Act entrepreneurs are obliged to notify to the President of the Office of Competition and Consumer Protection of any intended concentration. Typical examples of concentration are:

- ▶ a merger of two or more independent entities;
- ▶ the take-over of control of another entity;
- ▶ creation by entrepreneurs of one joint entrepreneur.

The obligation shall apply, if the following turnover-thresholds are met: combined turnover of the entrepreneurs participating in the concentration in the marketing year preceding the year of the notification exceeds € 1 m or combined turnover of the entrepreneurs participating in the concentration in the marketing year preceding the year of the notification exceeds € 50 m .

The President of the Competition and Consumer Protection Office examine the intended concentration and will approve it if it does not result in a significant restriction of competition, in particular, by emergence or strengthening of dominant position in the market. If it does, the President may prohibit the concentration (with some exceptions) . Before issuing an approval for concentration the President may impose upon the entrepreneur or entrepreneurs intending to perform the

concentration an obligation, or accept their obligation to meet some specific conditions (e.g. to divest the entirety or a part of the property of one or more entrepreneurs).

The EC Merger Regulation applies accordingly. The European Commission and the President of the Office of Competition and Consumer Protection cooperate with each other through the European Competition Network (ECN).

The substantial part of the Polish antitrust law is the prohibition of practices infringing collective consumer interests. A practice infringing collective consumer interests shall mean any unlawful activity of an entrepreneur prejudicial to these interests. The President may, in a decision on pronouncing a practice as infringing collective consumer interests, order that the same be discontinued. Such decision may be published in its entirety or in part at the expense of the entrepreneur.

Non-observance of the terms of the Act concerning the competition restricting agreements, abuse of dominant position, merger control or practices infringing collective consumer interests may result in severe pecuniary fines being imposed by the President of the Office of Competition and Consumer Protection.





# 7. Capital markets

## 7.1. General

In recent years, Polish capital market experienced a period of continuous development. This is particularly visible in the increasing size and importance of the Warsaw Stock Exchange and the growing number of listed companies, but also in the broad interest in investment funds.

## 7.2. Regulatory environment

### Legal provisions

The basic principles of the Polish capital market are set out by the following regulations:

- ▶ the Act on Trading in Financial Instruments;
- ▶ the Act on Public Offering and on Terms on which Financial Instruments are Introduced to an Organized System of Trading as well as on Listed Companies;
- ▶ the Act on Supervision over the Capital Market.

These provisions implement the European Parliament and Council Directives regarding the capital markets, adjusting the Polish provisions to the European Community standards. In particular, the manner in which prospectuses are prepared is currently in line with the EU prospectus regulation, reference filings for securities admitted by other EU regulators have been adequately provided for in the Polish provisions. In 2008, Polish regulations will be adjusted to the provisions of the Markets in Financial Instruments Directive, and thus the legal framework for investment firms will change significantly.

Increasing attention is applied to market communication, protection of minority investors, counteracting fraud and insider trading.

Also the regulations regarding investment funds, contained in the law on investment funds dated 27 May 2004, as amended, reflect the appropriate provisions of EU law concerning undertakings for collective investments in transferable securities. In particular the offering of foreign investment funds in Poland is now regulated in detail.

## Financial Supervision Commission

Polish capital market is supervised by the Financial Supervision Commission (*Komisja Nadzoru Finansowego - FSC*). FSC is a single regulatory authority supervising insurance, pension funds, banks and financial markets institutions. FSC replaced, among others, the Polish Securities and Exchange Commission, the Insurance and Pension Funds Supervisory Commission, and the Banking Supervision Commission.

As far as capital markets are concerned, one of the substantial functions of the FSC is protecting the interests of investors.

The role of the FSC includes also supervision over brokerage houses, collective investment institutions and public companies acting or offered in Poland. The competences of the FSC include both initial control, as well as subsequent supervision over the activity over the aforementioned entities as well as over brokers and investment advisors. FSC may impose fines and other administrative measures upon market participants who fail to comply with Polish regulations.

In case of entities which are also subject to supervision within other EU jurisdictions, FSC cooperates with local market regulators in exercising supervision.

## Warsaw Stock Exchange

The Warsaw Stock Exchange (*Giełda Papierów Wartościowych w Warszawie - WSE*) is the principal market in Poland where stocks, bonds, derivatives and other financial instruments are traded. Securities are traded on two different markets within the WSE: the "main floor" (primary market), the "parallel market". In addition, WSE also owns a stake in an OTC market called MTS-CeTo, and operates NewConnect, a multilateral trading system. The details of these three markets are given below. As at 29 May 2008, there were 365 companies (including 26 foreign companies) and several treasury, corporate and foreign bond series quoted on all markets on the WSE in total. Traded derivatives include future contracts on indices and selected stocks, options on indices, and other. The capitalisation of WSE as of 29 May 2008 exceeded PLN 916 billion. The total stocks trading volume in 2007 exceeded PLN 450 billion.

### Main floor (primary market)

To be admitted to the main floor, the stocks must have an aggregate value of not less than € 1 m, and the shares subject to the application are held by shareholders who hold not shares entitling to no more than 5% of shares represent not less than 25% of all shares in the company, or where at least 500,000 shares of an aggregate value of € 17 mare held by shareholders who hold shares entitling to less than 5% of votes each. The issuer must publish audited annual financial statements for the previous three financial years. As of 4 July 2008, 338 companies were listed in the main market.

## Parallel market

The parallel market generally accepts financial instruments which do not meet the criteria for the primary market, provided that the issuers meet the reporting/offering requirements provided by law and are not subject to bankruptcy or liquidation proceedings, and that there are no restrictions regarding the transfer of such instruments.

## New Connect

In August 2007 a new alternative multilateral trading system was opened by the Warsaw Stock Exchange. New Connect is intended for smaller, innovative companies wishing to attract financing through private placement and provides subsequent liquidity offered by the trading system, with less stringent reporting and compliance requirements.

## OTC market

The Polish over-the-counter (OTC) market, operated by MTS-Ceto, lists mainly State Treasury and corporate bonds, collateralized debt instruments and shares. Transactions in the OTC market may be carried out by and between brokerage houses that are shareholders of MTS-CeTo.

## Investment funds

Recent years have evidenced the increasing interest of Polish investors in investment funds. The assets held by domestic investment funds have grown from PLN 7.1 billion in 2000 to over PLN 104.5 billion as of end of June 2008. Also the number and variety of available Polish investment funds have increased rapidly. Domestic offer is supplemented by a growing number of foreign funds originating from other EU countries, which were admitted to offering in Poland.

Polish investment funds are separate legal entities managed by fund management companies which act as joint-stock companies. Depending on the structure, participation of investors in the decision making process regarding the assets may also be involved.

## Open end investment funds

These open end funds represent the majority of Polish investment funds.

Investors may join and leave the funds virtually at any time throughout the life of the fund. The participation units offered by these funds are not considered securities for the purpose of Polish regulations. As far as open end investment funds are concerned, recently more and more investors turn to umbrella investment funds due to flexibility and favourable tax treatment.

The investment limits binding upon open end investment funds are quite stringent, however in case of specific types of funds called specialized investment funds some of these limitations are levied.

#### **Closed end investment funds**

Closed end investment funds are divided into a specified number of investment certificates, which limits the possibility of entering and leaving such funds. Investment certificates issued by these funds are considered securities under Polish regulations and may be admitted to trading in a regulated market.

New types of closed end funds, including securitization funds, real estate funds and non public asset funds were introduced to Polish legal system. These new types of funds are also becoming increasingly popular and should contribute to the growth of the Polish investment fund market.





## 8. Accounting and auditing

### 8.1. Introduction to the accounting framework in Poland

Polish accounting is regulated by the Accounting Act of 29 September 1994 (the Act). The Minister of Finance has also issued several decrees covering specific accounting areas such as financial instruments, consolidation, accounting for banks, insurance companies, investment funds and pension funds. The Accounting Act underwent significant changes, effective in 2002 to bring Polish accounting practices closer to the then effective International Financial Reporting Standards (IFRS). However, due to the many changes in IFRS becoming effective in 2005 and later, differences now exist between the Act and IFRS as noted in Section 8.4 below. In 2002 the Polish Accounting Standards Committee was established to prepare and issue standards to implement the Act. Till January 1, 2008 four standards (KSR) have been issued:

- ▶ KSR 1 "Cash flow statement"
- ▶ KSR 2 "Income taxes"
- ▶ KSR 3 "Construction contracts"
- ▶ KSR 4 "Impairment of assets"

The Committee issued also three standpoints (not a standard), one on accounting for emission rights, second on conversion costs for balance sheet valuation, and the third on green certificates.

In areas unregulated by the Act or National Standards, reference may be made to IFRS.

The amendments to the Act, which came into force on 1 January 2005 permit some Polish entities to apply IFRS as adopted by EU as their primary basis of accounting, rather than applying the accounting principles in the Act. This choice is summarised in the following table:

	Standalone financial statements	Consolidated financial statements
1. Entities listed on a regulated market in Poland or other European Economic Area (EEA) country.	Choice	Required
2. Banks (other than those included in 1, 3 and 4).	Not permitted	Required
3. Entities that applied for permission to list on a regulated market in Poland or other European Economic Area (EEA) country.	Choice	Choice
4. Entities that are part of a group where the parent prepares consolidated financial statements for statutory purposes in accordance with IFRS as adopted by EU.	Choice	Choice
5. Other entities.	Not permitted	Not permitted

## Accounting records

The provisions of the Act and related regulations are applicable to, among others, companies and partnerships that have their registered office or place of management in Poland. For those entities that select to apply IFRS as their primary basis of accounting instead of Polish principles, the following sections of the Act will still apply:

- ▶ the principles of maintaining accounting books (it will not however include the format of financial statements) (chapter 2);
- ▶ stock taking (chapter 3);
- ▶ auditing and publishing financial statements (chapter 7);
- ▶ directors' report (Art. 49);
- ▶ protection of data (chapter 8);
- ▶ penal liability (chapter 9);
- ▶ specific and interim provisions (chapter 10);
- ▶ amendments to the provisions in force, and final provisions.

Each entity is obliged to maintain accounting books and other documentation which, in particular, contain:

- ▶ a description of the entity's accounting principles;
- ▶ rules for keeping subsidiary ledgers and their link to general ledger accounts.

Accounting records should be kept and financial statements drawn up in the Polish language and expressed in the Polish currency.

## 8.2. Major aspects of valuation of balance sheet items

### Intangible assets

Intangible asset is recognised if it is probable that the future economic benefits that are attributable to the asset will flow to the company. Intangible assets are recorded initially at their purchase price and then are amortised over their useful lives or written down for impairment. The amortisation period for goodwill and development costs qualifying for capitalisation should not exceed five years. If justified, however, the amortisation period for goodwill may be extended up to 20 years.

### Property, plant and equipment

Property, plant and equipment are stated at acquisition or production cost, less accumulated depreciation and impairment write-offs. Land is valued at its acquisition cost reduced by write-offs due to impairment.

Assets may be revalued in accordance with separate regulations.

The last revaluation was on 1 January 1995 based on decree issued by the Ministry of Finance. The result of revaluation is reflected in the revaluation reserve. After a fixed asset is sold or liquidated, the amount remaining in the revaluation reserve is transferred to reserve capital, which can be distributed.

Costs incurred on an asset already in use, such as repairs, overhauls or operating fees, are expensed as incurred. If, however, such costs increase the expected future economic benefits of a given fixed asset beyond the original expected benefits they are capitalised into the value of the asset.

Assets, except for land, are depreciated on a straight-line or other systematic basis over the assets' estimated useful lives or shorter of useful life or term of right.

Borrowing costs (interests) which relate to the construction, adaptation, assembly or improvement of a fixed asset or intangible asset are capitalised as part of the cost of the asset, where those borrowings were taken out for that purpose. FX gains/losses on such borrowings are also capitalised.

### Investment property

Investment property is valued at purchase price decreased by depreciation and write-offs due to impairment or at their fair value - the policy to be selected. If the fair value model is selected, the change is recognized in the revaluation reserve in equity.

Starting from 1 January 2009 the amendment to the Accounting Act will become binding and the changes in the fair value will be recognized through profit and loss statement.

Investment property includes properties which the Company does not use for its own purposes but which were acquired or constructed for the purpose of generating profits in the form of increasing value and revenues from rental. As of 1 January 2009 the definition of the investment property will be amended and classification of an asset as investment property will no longer depend on the intended use of the asset upon its purchase („assets acquired for the purpose....”), but rather on the intended use of the asset („assets held for the purpose....”).

## Other investments

### Financial instruments

Financial instruments are initially recognised at their acquisition cost (price), being the fair value of the consideration given. The costs of the transaction are included in their initial value.

After initial recognition, financial instruments (including derivatives and embedded derivatives) are classified into one of the following four categories and reported as follows:

- ▶ investments held to maturity - measured at amortised cost, calculated using the effective interest rate;
- ▶ originating loans and receivables from providing funds - measured at amortised cost, calculated using the effective interest rate. Receivables from trade sales are not discounted;
- ▶ investments held for trading - measured at fair value. Any unrealised gains/losses are recorded in the profit and loss account;
- ▶ investments available for sale - measured at fair value, with unrealised gains/losses recognised in the profit and loss account or in the revaluation reserve in equity until the investment is sold or impaired at which time the cumulative gain/loss is included in the profit and loss account - the policy to be selected.

In single entity accounts of a parent entity, investments in subsidiaries, associates or joint ventures can be carried at cost, equity accounted or fair valued. If carried at fair value, all changes are recognized in the revaluation reserve in equity. The fair value of financial instruments traded on an active market is set with respect to the prices listed on such market as at the balance sheet date. If there is no such listed market price, the fair value is estimated based on the listed market price of a similar instrument or based on the expected cash flow.

Those companies that are not subject to a statutory audit may elect not to apply the above valuation methods if it does not effect the true and fair presentation. In this case investments may be accounted for as follows:

- ▶ short-term investments - at lower of cost or market value or at fair value with gains/losses recognised in the profit and loss account;
- ▶ long-term investments - at acquisition cost less impairment or at fair value with gains/losses recognised in the revaluation reserve in equity.

Starting from 1 January 2009 in case of companies not being subject to a statutory audit valuation at amortized cost will be also allowed for investments with known maturity date.

### Hedge transactions

Transactions involving derivative instruments to hedge a financial risk are split into three types of hedges - cash flow hedges, fair value hedges and a hedge of a net investment in a foreign subsidiary. Hedge accounting applies as follows:

	Cash Flow Hedges	Fair Value Hedges	Hedge of a net investments in a foreign subsidiary
Hedged item recognized	In accordance with other standards.	At fair value, with all changes recognized in the income statement.	In accordance with other standards.
Hedging instrument recognized	At fair value, with effective part of all changes in equity.	At fair value, with all changes recognized in the income statement.	At fair value, with effective part of all changes in equity.

### Inventories

Stock should be valued at the lower of cost or net realisable value. Capitalisation of financial costs in stock is permitted if the production process requires a necessary lengthy period of preparations.

### Foreign currency transactions

Transactions denominated in non-Polish currencies are translated into Polish equivalents at the rate of exchange on the date of the transaction.

At the balance sheet date assets and liabilities denominated in foreign currencies (other than shares in subsidiaries and associates valued using equity method) are restated at National Bank of Poland rate.

Foreign exchange differences arising on revaluation are recorded as financial income or financial expense except for:

- ▶ certain types of long-term investments denominated in foreign currencies where gains are recognized in the revaluation reserve;

- ▶ foreign exchange differences relating to liabilities financing assets under construction which form part of the cost of those assets;
- ▶ foreign exchange differences relating to derivative instruments used to hedge foreign exchange risk.

### Share capital

Instruments are classified into equity or liability based on the terms and the definition of a liability and equity. *Dopłata* - or additional capital - regardless of its terms of redemption is classified as equity.

The share capital presented in the balance sheet should be equal to the amount registered at the registration court based on the shareholders' resolution.

### Deferred tax

Deferred tax is provided, using the liability method, on all temporary differences at the balance sheet date between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes.

Deferred tax liabilities are recognized for all taxable temporary differences. Deferred tax assets are recognized for all deductible temporary differences and unused tax losses, to the extent that it is probable that taxable profit will be available against which the deductible temporary differences and unused tax losses can be utilized.

Deferred tax assets and liabilities are measured at the tax rates that according to provisions enacted by the balance sheet date will apply in the period when the asset is realized or the liability is settled.

The Income taxes Standard also requires additional tax credits given to companies in the past to be treated as a government grant - giving rise to a deferred tax asset and deferred income to be amortised over the useful life of the asset. Those companies that are not subject to a statutory audit may elect not to recognize deferred tax balances.

### Leases

A lease is classified as a finance lease if at least one of the seven conditions is met:

- ▶ the legal title is transferred upon lease expiry;
- ▶ the asset may be purchased by the lessee at a price lower than the market value upon lease expiry;
- ▶ the lease term is longer than 75% of the economic useful life of the leased asset;
- ▶ the sum of the discounted minimum lease payments is higher than 90% of the market value of the leased asset as at the lease inception;
- ▶ the lease can be extended on more favourable terms;

- ▶ if cancelled, the lessee bears all cancellation costs;
- ▶ the asset is adapted to specific needs of the lessee.

Those companies that are not subject to a statutory audit may adopt simplified accounting for leases, i.e. account for the leases in accordance with the tax treatment.

### Business combinations

Business combinations may be accounted for using the purchase method or pooling of interest method. Pooling of interest method may only be used where all 11 criteria given in the Act are met. Group reconstructions/reorganisations should generally not result in goodwill or fair value adjustments; i.e. pooling of interests for certain types of transactions is allowed; however, the definition of group restructuring for the application of pooling of interest method is quite restrictive - there must be 100% ownership. Starting from 1 January 2009 pooling of interest method will not be allowed for business combinations other than under common control. At the other side the requirements to hold 100% of shares for common control transaction will be waived.

## 8.3. Financial statements

Financial statements must be prepared in Polish language and expressed in the Polish currency. Financial statements consist of:

- ▶ a balance sheet;
- ▶ an income statement;
- ▶ a statement of cash flows;
- ▶ a statement of changes in equity;
- ▶ notes to the financial statements (split into an introduction and additional notes).

A cash flow statement and a statement of changes in equity are only required by entities whose financial statements are subject to an audit.

Joint-stock companies, limited liabilities companies, insurance companies, co-operatives and state-owned companies prepare, additionally to the financial statements, a financial review by management - the management report (the Director's report). Such a report should include:

- ▶ description of events that occurred during the reported period and after its closing date till the date the financial statements are approved, that significantly impact the entity's performance;
- ▶ predicted development of the entity;

- ▶ major achievements in the research and development area;
- ▶ actual and planned financial situation, including financial ratios;
- ▶ details about transactions in own shares;
- ▶ financial risk management objectives and methods;
- ▶ information on application of corporate governance rules (only public companies).

The format of the balance sheet, income statement, statement of cash flows, statement of changes in equity and the contents of notes to the financial statements are determined by the Accounting Act. Companies listed on the Warsaw Stock Exchange when preparing the financial statements in accordance with Polish GAAP are guided by specific regulations for public issuers. This includes a reconciliation between the results reported in accordance with Polish accounting principles and those that would have been met if IFRS as adopted by EU had been applied.

## 8.4. Financial reporting and audit requirements

### Financial reporting

All entities governed by the Accounting Act are obliged to prepare financial statements and consolidated financial statements (if applicable) for each financial year. The financial year need not be the calendar year. Listed companies are additionally obliged to prepare semi-annual and quarterly (simplified) financial statements as well as interim consolidated financial statements. An entity must also prepare financial statements as at the date of the close of the accounting records and as a result of the other events, for example: close of business (liquidation date), at the date preceding the change of its legal form, or at the date of division or merger if the new entity is established. As of 1 January 2009 the requirement to close the books of account and prepare financial statements will be limited only (apart from the year-end closing) to the circumstances of termination of the activities of an entity.

Financial statements must be filed with the registration court together with the following documents:

- ▶ auditor's opinion, if the statements were subject to an audit;
- ▶ shareholders' resolution on the approval of the financial statements and distribution of profit or coverage of loss;
- ▶ directors' report.

The standalone or consolidated financial statements should be approved respectively within 6 months and 8 months after the balance sheet date. The deadline for consolidated financial statements will be shortened to 6 months. New deadline will be applicable for the first time for 2009 financial statements.

Filing is required to be performed within fifteen days of approval of the financial statements by the shareholders or the period during which they should have been approved. Additional filling will be required from the entities, which have not managed to approve their financial statements in the prescribed dates. Such entities will have to file their financial statements within fifteen days after the lapse of 6 months from the balance sheet date and then after fifteen days of approval. Regulation will become effective for the first time for 2009 financial statements.

Listed companies are also required to file their financial statements with the Financial Supervision Commission including interim (quarterly and semi-annual) reporting. Shorter deadlines apply.

All entities which are required to be audited must also publish certain elements of their financial statements in the Commercial Bulletin (*Monitor Polski B*).

Violation of the Accounting Act by a person responsible for drawing up the financial statements (usually the Management Board and Supervisory Board) may be recognised as a criminal offence, punishable by imprisonment for a term not exceeding two years, by a fine, or both.

## Audit requirements

Polish statutory audit requirements apply to the annual standalone and consolidated financial statements of the following entities that operate as a going concern:

- ▶ all banks, insurance companies, investment and pension funds, joint-stock companies and listed companies;
- ▶ other entities that meet at least two of the following three thresholds in the financial year preceding the financial year for which the financial statements were drawn up:
  - annual average employment - 50 individuals in full time jobs;
  - total assets as at the end of the financial year - the Polish currency equivalent of € 2,500,000 or greater;
  - net sales including financial income for the financial year - the Polish currency equivalent of € 5,000,000 or greater.

The statutory audit requirements apply also to entities after merger for the year when the merger occurred.

As of 1 January 2009 new regulation will come into force and all IFRS standalone financial statement will become subject to audit requirements.

The semi-annual financial statements of listed companies and investment funds are subject to review by an independent auditor.

Audits are governed by the relevant legal requirements in force, which include:

- ▶ Chapter 7 of the Accounting Act;
- ▶ Auditors Act;
- ▶ auditing standards issued by the National Chamber of Auditors.

## 8.5. Consolidation

### Consolidation requirement

A capital group is defined as a group which comprises a holding company, its subsidiaries and jointly controlled entities not being commercial entities. As of 1 January 2009 the definition of the group will be changed and will comprise a holding company and its subsidiaries.

According to the Accounting Act, a holding company is defined as a company that controls or jointly controls another entity.

A capital group must draw up consolidated financial statements on the basis of the standalone financial statements of entities that belong to the group.

Consolidated financial statements of a capital group are required if two out of three of the following thresholds are met in the financial year and the preceding financial year:

- ▶ annual average employment - 250 individuals in full time jobs;
- ▶ sum of total assets of all group entities - the Polish currency equivalent of € 7,500,000;
- ▶ sum of sales including financial income of all group entities - the Polish currency equivalent of € 15,000,000.

A subsidiary or a jointly controlled entity is excluded from consolidation (or proportional consolidation) if:

- ▶ the shares in such entity were acquired, purchased or otherwise obtained for the sole purpose of subsequent resale, within one year of the date of acquisition;

- ▶ there are restrictions on the exercise of control or joint control over the entity, which restrictions prevent free disposal of its assets, including net profit generated by this entity, or which prevent exercise of control over the bodies directing the entity.

A subsidiary or a jointly controlled entity need not be included in the consolidated financial statements if:

- ▶ the amounts stated in that entity's financial statements are immaterial in relation to the holding company's financial statements;
- ▶ the costs of gathering information are very high (only for entities outside the EEA); this exception is valid only for 2008 financial statements.

## Consolidated financial statements

Consolidated financial statements comprise:

- ▶ a consolidated balance sheet;
- ▶ a consolidated income statement;
- ▶ a consolidated statement of cash flows;
- ▶ a consolidated statement of changes in equity;
- ▶ notes to the consolidated financial statements (split into an introduction and additional notes).

Consolidated financial statements should be accompanied by a Group directors' report. The directors' report should be prepared by the Management Board of the holding company.

Consolidated financial statements should be prepared within five months of the balance sheet date of the holding company. They should be approved by the shareholders of the holding company within eight months of the balance sheet date. As mentioned above the deadline for the approval of consolidated financial statements will be shortened to six months. Accordingly deadline for the preparation of the consolidated financial statements will be shortened to three months.

Consolidated financial statements should be prepared as at the same balance sheet date and for the same financial year as the financial statements of the holding company. If this date is not the same for all entities within the group, then consolidation may cover financial statements drawn up for a different twelve-month period than the financial year, if the balance sheet date of those financial statements is earlier by no more than three months of the balance sheet date adopted by the group. Companies included in the consolidation should adopt consistent accounting policies and consistent methods of preparation of financial statements. If the accounting policies of consolidated entities differ from those applied for consolidation, then appropriate adjustments must be carried out at the consolidation level.

## Methods to Include Entities in Consolidated Financial Statements

A subsidiary (see Consolidation requirement) is consolidated using the full consolidation method. Jointly controlled entities that are not companies are consolidated using the proportional consolidation method. Jointly controlled entities that are companies are accounted for using the equity accounting method. Starting from 1 January 2009 there will be no distinction between those jointly controlled entities that are not companies and those that are companies. Associates are accounted for using the equity accounting method.

## 8.6. Principal differences between Polish and International Financial Reporting Standards

The main differences between Polish Accounting Standards (PAS) and International Financial Reporting Standards (IFRS) effective as of 1 January 2008 are presented below. The table does not include amendments to the Accounting Act, which will be binding as of 1 January 2009. The main changes are described in relevant sections above.

### Other main differences between Polish and International Financial Reporting Standards

Description	PAS	IFRS
Functional currency	Functional currency concept does not underlie the preparation of the financial statements.	Functional currency concept underlies the preparation of the financial statements.
Long term contracts	Long term contracts approach need only be applied for contracts with a period exceeding 6 months.	Construction contracts approach should be applied to all contracts of this type regardless of the period.
Investment property	Assets are acquired for increase in value or rental or interest, and not used on the operations of the business. Assets are measured using the fair value or cost model. Fair value model requires regular revaluation of property to fair value, with all changes reflected in equity. Cost model requires carrying at cost and depreciation over a useful life. Assets held under an operating lease cannot be classified as investment property.	Assets are held for increase in value or rental, and not used on the production or supply of goods or services or for administrative purposes or not held for sale in the ordinary course of business. Assets are measured using the fair value or cost model. Fair value model requires regular revaluation of property to fair value, with all changes reflected in the profit and loss. Cost model requires carrying at cost and depreciation over a useful life. Assets held under an operating lease can be classified as investment property, and accounted for as a finance lease. The fair value model must be applied.

Description	PAS	IFRS
Intangible assets	Revaluation to fair value is not permitted. All intangible assets are amortised.	Revaluation to fair value permitted only if there is an active market in which it is possible to reliably determine fair value. Intangible assets are split into those with a finite life - amortised - and those with an indefinite life - not amortised and subject to a yearly impairment test.
Impairment of assets	Assessed yearly if there is high probability that the assets (including goodwill and intangibles) will not bring expected benefits. Write assets down to selling value or if that is not available to fair value.	Assessed yearly if there are indicators that assets may be impaired (including goodwill and intangibles). If indications exist, write assets down to the higher of fair value less costs to sell and value in use. Even if there are no indicators, goodwill, indefinite life intangible assets and intangible assets not yet in use are subject to a yearly test.
Hyperinflation	No adjustments for hyperinflation - regulated restatements of fixed assets undertaken instead as noted below.	During periods of hyperinflation, assets and liabilities are restated to reflect the changes in the general price index.
Business Combinations	Accounted for as an acquisition or pooling of interest - based on the conditions of the combinations. Group reorganisations among entities under 100% control also apply pooling of interest method.	Accounted for as an acquisition in all cases. No accounting given for combinations among entities under common control.
Goodwill & adjustments to fair value on acquisition	Goodwill on acquisition (including associates) is the difference between the purchase price and the fair value of all assets and liabilities acquired. Changes in the initial fair values of acquired assets and liabilities, which are identified during the financial year in which the acquisition took place should adjust goodwill. Goodwill is amortised over the useful life, generally not expected to be longer than 20 years. Negative goodwill: <ul style="list-style-type: none"> <li>▸ relating to future losses acquired is deferred and amortised over the period of the loss;</li> <li>▸ otherwise, up to the value of the depreciable assets is deferred and amortised over the depreciable life;</li> <li>▸ balance is recognized as income.</li> </ul>	Goodwill on acquisition (including associates) is the difference between the purchase price and the fair value of all assets and liabilities acquired including contingent liabilities. Changes in the initial fair values of acquired assets and liabilities, if only provisionally assessed at the date of acquisition, which are identified within 12 months of the acquisition, are adjusted against goodwill. Goodwill is not amortised, but subject to a yearly impairment test. Negative goodwill is recognised as income.

Description	PAS	IFRS
Fixed assets	Fixed assets may be revalued only on the basis of separate regulations to a value not exceeding the fair value.	Fixed assets may be revalued to their fair value.
Discounting of long-term trade receivables and payables	Trade receivables and payables, regardless of the credit period, are not discounted.	Long-term trade receivables and payables are discounted as any other financial assets.
Capitalisation of borrowing costs	All borrowing costs incurred in the period of construction of tangible and intangible assets are capitalised as part of the assets' cost. FX gains/losses are also included as part of the borrowing costs. A choice is given to capitalise borrowing costs into inventory which takes considerable time to complete.	Requires an entity to choose between capitalising or not capitalising borrowing costs on specific and general borrowings to finance the construction of individual qualifying assets. FX gains/losses are also included as part of the borrowing costs, to the extent they represent an adjustment to the interest charge.
Investments in subsidiaries, associates and joint ventures in separate standalone accounts of the parent	Choice of policy between: <ul style="list-style-type: none"> <li>▶ cost - equity accounting;</li> <li>▶ fair value with all changes recognized directly in equity.</li> </ul>	Choice of policy between: <ul style="list-style-type: none"> <li>▶ cost;</li> <li>▶ fair value with all changes recognized directly in equity.</li> </ul>
Joint Ventures	Joint ventures which are commercial companies are accounted for using the equity accounting method. Joint ventures which are not commercial companies are accounted for using proportional consolidation.	Choice of policy applied to all joint ventures, between: <ul style="list-style-type: none"> <li>▶ proportional consolidation;</li> <li>▶ equity accounting.</li> </ul>
Financial instruments	There are the following categories of financial instruments: <ul style="list-style-type: none"> <li>▶ loans and receivables restricted to those arising from providing funds to another entity;</li> <li>▶ available for sale financial assets are valued at fair value with a choice of policy to recognize changes in the income statement or equity. Any impairment recognized in the income statement may be reversed in the income statement at a later date;</li> <li>▶ held for trading instruments are those acquired for the purpose of generating profits from sale in a short period of time;</li> </ul>	There are the following categories of financial instruments: <ul style="list-style-type: none"> <li>▶ loans and receivables include those arising from sale of goods and may include balances acquired in some cases;</li> <li>▶ available for sale financial assets are valued at fair value with changes recognized in equity. Any impairment below cost is recognized in the income statement and may not be reversed through the income statement;</li> <li>▶ financial assets or financial liabilities at fair value through profit and loss consist of: <ul style="list-style-type: none"> <li>- held for trading category;</li> </ul> </li> </ul>

Description	PAS	IFRS
	<ul style="list-style-type: none"> <li>▸ held for maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturity that an entity has the positive intention and ability to hold to maturity;</li> <li>▸ other financial liabilities.</li> </ul>	<ul style="list-style-type: none"> <li>- other assets or liabilities designated by management as at fair value through profit and loss;</li> <li>- other financial liabilities.</li> </ul>
Hedging	Cash flow hedges include all firm commitments. The balance in equity is included in the carrying value of the acquired asset/ liability.	Cash flow hedges include firm commitments only relating to FX risk - all other firm commitments are fair value hedges. The balance in equity remains in equity until the underlying transaction effects the income statement. If the firm commitment was for a non-financial asset or liability there is a choice of policy to adjust the carrying value of the asset/liability or keep the balance in equity until the asset/liability impacts the income statement.
Investment tax credits	Investment tax credits used give rise to a deferred tax asset and are recognized as a government grant to be amortised over the useful life of the asset (per standard issued by Accounting Standards Committee).	Unused investment tax credits give rise to a deferred tax asset and affect the tax charge in the year granted.
Share - based payments	There is a lack of requirements concerning share-based payments accounting. The practice is not to account for transactions of this type.	Share-based payments transactions including transactions with employees or other parties to be settled in cash, other assets or equity instruments of the entity are recognised in the entities financial statements.

In any matters not regulated by the Accounting Law or the Decrees an entity may apply national accounting standards issued by the Accounting Standards Committee. In the absence of relevant local regulations, the entity may apply International Financial Reporting Standards.



# Contacts

## About Ernst & Young

### Ernst & Young worldwide...

Ernst & Young, one of the leading international corporations rendering professional advisory services shows firms opportunities for development and helps them on their path to success. Ernst & Young is the auditor of more than 25% of the world's top businesses on The Forbes Global 2000. It is also a global leader in the field of tax advisory services. More than 130 thousand specialists in a variety of areas in 140 countries combine their knowledge and international experience with their familiarity with local conditions. It is our goal to provide innovative and practical solutions: from idea to implementation, all the way to the evaluation. The comprehensive nature of our services, relevant resources and our global reach enable our firm to serve clients wherever they may be.

### ... and in Poland

Our Polish roots date back to the period from 1933 to 1939 when Ernst & Young's British predecessor, the firm of Whinney, Murray & Co provided advisory services in Warsaw. We have been operating in Poland as Ernst & Young since 1990. As a result of the merger with the Andersen team, Ernst & Young in Poland has become the largest advisory firm on the Polish market. We employ more than 1,200 professional advisors and auditors working in five offices in Warsaw, Katowice, Cracow, Poznan and Wroclaw.

In working with our corporate clients and entrepreneurs we focus not only on evaluating the current status but also on devising favorable strategies for conducting business. It is also our goal to prepare firms to meet the changing market reality and fiscal regulations so that our clients may achieve a competitive edge on the domestic and international markets.

We offer services in the following areas: assurance, business advisory services, tax advisory services, transaction advisory services, grants and incentives advisory services, accounting, real estate advisory services and training.

# Our Services

## Assurance

We audit financial statements prepared in accordance with Polish Accounting Standards (Polish GAAP), in accordance with standards issued by the International Accounting Standards Board (International Financial Reporting Standards or IFRSs), or generally accepted accounting principles in the United States (US GAAP). We provide assistance to the companies that wish to prepare their financial statements in accordance with the EU regulations, especially those involved in transactions on capital markets at home and abroad.

## Business Advisory

We help our clients to resolve their business problems. We show how to improve their activities according to the best worldwide standards, to adjust to legal requirements and to gain competitive advantage.

We provide services to the majority of the 100 largest Polish enterprises from the "500 Rzeczpospolita" ranking (2007 edition).

We currently employ about 200 consultants. Our consultants have gained experience and qualifications working for many firms in the consultancy and auditing sector, at large multinational corporations, and in the public sector. They hold numerous certificates and diplomas, renowned in Poland and globally, which confirm their qualifications. These include: MBA, PMP, CFA, CIA or ACCA.

We provide services in the following areas:

- ▶ financial risk management;
- ▶ business risk management;
- ▶ financial and performance management;
- ▶ fraud management;
- ▶ financial advice;
- ▶ technology advice;
- ▶ customer relationship management.

## Tax Services

Our tax advisors help clients to minimize tax burdens while observing all legal regulations. We offer the following services:

- ▶ international tax;
- ▶ VAT, customs and excise;
- ▶ corporate income tax;
- ▶ personal income tax and payroll – Human Capital;
- ▶ social security;
- ▶ investment strategies;
- ▶ transfer pricing;
- ▶ litigation;
- ▶ financial solutions.

## Transaction Advisory Services

We conduct due diligence for buyers and sellers. We prepare sensitivity analyses in various business areas and studies on the return on investment projects. We cooperate with the client for the project's duration, from the analysis of investment opportunities to their implementation. Our experts provide advisory services on the post-transaction allocation of the purchase price. We conduct M&A projects while offering clients support at the stage of transaction organization and management for the seller and the buyer. Our experts also provide support in corporate restructuring and reorganization processes.

## Real Estate Services

The Ernst & Young Real Estate Services Group has in-house technical skills essential for decision-making in a complex real estate environment combined with expertise in tax, transaction advisory services and accounting.

Our team provides a full range of consulting services for all types of real estate including offices, shopping centres, hotels, leisure uses, residential developments, industrial as well as agricultural.

Among our services we offer:

- ▶ Real Estate Finance & Transaction Support:
  - transaction advice;
  - project finance advisory;

- real estate due diligence.
- ▶ Real Estate Advisory:
  - valuations;
  - market analyses;
  - highest & best use studies.
- ▶ Corporate Real Estate / Portfolio Management:
  - restructuring of real estate portfolios;
  - business location analysis;
  - landlord or tenant representation.

## Accounting Services

We are offering solutions in accounting and payroll including outsourcing of these functions. Our services support business management and allow to focus on the areas of operations that are increasing the value of the business.

Accounting Services team is providing complex accounting and payroll services assuring that all statutory and legal requirements are met, solutions offered to all Clients are time and cost efficient and risks are reduced to a minimum.

For accurate and timely information on Clients books we are offering Accounting Online. A web enabled tool accessible only to authorized personnel through the internet. Depending on the Client plans, books can either be ran on the IT system offered by Ernst & Young, or directly on the system used by the Client.

## Academy of Business - training services

We have designed and developed a variety of training programs with the intention to provide skills required by managers of modern organisations:

- ▶ we prepare candidates for the examinations of international qualifications like ACCA, CFA and CIA;
- ▶ we develop skills in financial reporting for example IFRS and Polish accounting regulations, US GAAP;
- ▶ we develop various management skills for example soft skills, project management skills;
- ▶ we design tailor-made programs to meet the specific requirements of clients;
- ▶ we organise jointly with SGH postgraduate programs in various areas.

Our courses are run by professional trainers who bring a variety of experiences. Courses are intensive and based on case studies. Our materials are specially designed to help candidates with self studying and examinations.

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# About Domański Zakrzewski Palinka

Domański Zakrzewski Palinka is the largest law firm in Poland. With team of over 140 lawyers we serve clients from all business sectors, offering them comprehensive legal advice in all areas and law specialisations.

Thanks to our knowledge of both Polish and worldwide markets, we have helped numerous international firms with their operations in Poland. Our firm works with, among other institutions, the Warsaw Stock Exchange and the Polish Information and Foreign Investment Agency. We have often been the investor's main adviser, from company formation through all stages of its development. We have advised firms on acquiring Polish businesses, forming companies, and preparing for greenfield investments, including those in Polish Special Economic Zones (SEZ). Having assisted foreign investors in Poland and supported various forms of capital investment in Polish businesses, we have the knowledge, experience, and awareness of the local environment needed to help you attain your goals quickly.

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Ernst & Young

Assurance | Tax | Transactions | Advisory

Ernst & Young is a global leader in assurance, tax, transaction and advisory services.

Worldwide, our 130,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential.

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