# **DEXCO** A<sup>2</sup>A Polska

# Establishment of a company in Poland

Key points.

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### Advantages and challenges of doing business in Poland

### Advantages

- Economic stability and a strong economy. Poland's economy has been growing at a steady pace for more than 25 years and is the sixth largest economy in the European Union, with GDP per capita above 70% of the EU average (according to purchasing power parity). Eurostat data shows that Poland is the fourth most growing economy in the European Union and the leader in Central and Eastern Europe taking 2015 as a reference point.
- 2. Educated labour force. Human resources were already Poland's asset in 2008 and this indicator was higher than the EU average. The proportion of people with higher education is increasing. In 2022, as many as 9 Polish universities were ranked in the Shanghai ranking. Two Polish universities, Jagiellonian University and the University of Warsaw, were ranked second and third in Central Europe. Poland also has the best business university in Central and Eastern Europe according to the Financial Times. Kozminski University has been ranked 40<sup>th</sup> in the "European Business Schools 2023 Ranking".
- **3.** A strategic location in the heart of Europe. Poland has easy access to markets in the east and west

### Challenges

- 1. Bureaucratic procedures. Formalities can be time-consuming.
- 2. Variation according to regions. There is a great deal of variation between the provinces.

The Mazowieckie voivodeship is at a similar level to the richest regions in Spain and most regions in France (82% of the EU average), while the poorest eastern wall voivodeships have a GDP per capita comparable to Romania and Bulgaria.

**3.** Innovation in production and the economy. In terms of innovation in production and the economy, Polish enterprises are not very active compared to other EU countries.

### Conclusions

Poland is an attractive place to invest. In 2022, the inflow of Foreign Direct Investment (in Polish: BIZ) was at a record high. For many years now, Poland's membership of the European Union, the quality and availability of local suppliers and the qualifications of the workforce have been cited as having the greatest impact on Poland's attractiveness as a place to do business.



Poland is an attractive place for foreign investment, offering access to the EMEA or CEEC markets.

# Poland is an attractive place for foreign investment, offering access to the EMEA or CEEC markets.

Poland's economy is the sixth largest in the European Union and the largest among EU members from the former Eastern Bloc countries.

In 2018, a new support programme has been created – the so-called "Polish Investment Zone" (in Polish: PSI). Beneficiaries of this scheme are exempt from income tax (CIT or PIT) on the basis of a decision to support investments (in Polish: DoW). Since the beginning of 2022, in accordance with the Polish Deal, there have been a number of favourable changes aimed at attracting new investors. Despite the COVID-19 pandemic and the conflict across the eastern border, the government is trying to introduce changes to attract new investors, keep economic growth high, lower inflation and – in the long term – improve demographic indicators. On 15 October 2023, elections to the Sejm and the Senate of the Republic of Poland took place, in which, for the first time in 8 years, opposition parties gained a majority in the Sejm, which have a number of beneficial changes for entrepreneurs on their agenda.

Poland's membership in the European Union introduces a number of opportunities and perspectives for further development, including: National Recovery and Resilience Plan (in Polish: KPO). The KPO was approved by the European Commission on 17 June 2022. In line with EU targets, a significant proportion of the budget will be allocated to climate objectives (42.7%) and digital transformation (21.3%).

There are several issues to consider when entering the Polish market.

At EXCO A2A Polska, we have a team of highly qualified and committed professionals who are enthusiastic about helping and advising their clients.



Payroll, Personnel & HR Outsourcing

Outsourcing of bookkeeping services

Entry into the Polish

CorporateDueDilligence

market

Audit –



Consulting

Translation and interpretation

IT – Information systems



Legal assistance



Administration/Rental of office space



**Transfer pricing** 

We operate in the following services area:



Advice on capital transactions



What types of companies can be established in Poland?

Citizens of the Member States of the European Union, the European Economic Area, who wish to carry out a business activity in Poland, may:

# 1. set up a sole proprietorship or a commercial company of their choice

There are the following legal forms of companies in Poland:

### **Capital companies:**

### Limited liability company (Sp. z o.o.)

- It may be incorporated for any legally accepted type of activity.
- It consists of at least one shareholder, is directed by a Management Board composed of one or more members who may be shareholders or not. If there is only one member, they are liable to pay social security contributions.
- The minimum share capital is of PLN 5,000 and must be fully paid in at the time of setting up the company.

#### Joint- stock company

- It may be set up by one person. It is managed by one or more members of the Management Board, shareholders or not.
- The control of the company is entrusted to a Supervisory Board, composed of at least three members, appointed and dismissed by the General Meeting of Shareholders.
- The minimum share capital amounts to PLN 100,000.
- Shares subscribed in exchange for cash contributions must be paid in prior to the registration of the company in at least 1/4 of their nominal value.
- Shares subscribed for in-kind contributions must be fully paid in prior to the expiry of one year following the registration of the company at the latest.

### Simple joint-stock company

- New structure from 1 July 2021.
- Possibility of registration in the S24 system (on-line registration of the company in 24 hours).
- It is managed by one or more members of the Management Board, shareholders or not.
- There is no obligation to create a Supervisory Board; it is also possible to create a body in which management and supervision are combined a Board of Directors.
- The minimum share capital amounts to PLN 1.

### Sole proprietorship:

- This form of company was created to allow a natural person to run a small-scale business activity.
- The entrepreneur must enter their business into the Economic Activities Register kept by the commune head, the town mayor or the city mayor.
- The entrepreneur is subject to personal income tax (PIT).
- Entrepreneurs who are running a business for the first time or who are starting up again 5 years after the suspension or closure of their previous business can benefit from the Start-up Relief, which exempts them from paying social security contributions and only health contributions are paid.

### Commercial partnership:

- Partnerships include a general partnership, a professional partnership, a limited partnership and a limited joint-stock partnership.
- A limited joint-stock partnership has at least two partners: a general partner and a shareholder. A general partner has unlimited liability for all the obligations of the limited joint-stock partnership. General partners and shareholders may be natural persons, legal persons, organizational units without legal personality that have legal capacity. The minimum share capital amounts to PLN 50,000. The prerequisites for the formation of a limited joint-stock partnership are the signing of the articles of association by the company's founders, the making of contributions by the general partners and shareholders, the taking up of an appropriate number of shares in the company by the shareholders, and the registration of the company with the National Court Register (KRS).

N.B. There are also legal forms such as private partnerships.



### 2. provide cross-border services – without registering one's business in Poland

Under EU rules, services are normally provided for remuneration. These may be activities of an industrial or commercial nature, crafts or the exercise of a liberal profession. Cross-border services may only be provided on a temporary basis.

# **3**. establish a branch or a representative office in Poland.

Setting up a branch involves lower costs than setting up a new company.

A branch is an independent organisational unit of a foreign entrepreneur that does not have legal personality. All rights and obligations arising from the activity of the branch are vested in the foreign entrepreneur. Within the framework of a branch, the foreign entrepreneur may carry out activities only to the extent to which it carries out such activities abroad.



How much is the corporate income tax?

In Poland, the basic rate of corporate income tax is 19%.

The reduced rate shall be 9%.

## The reduced rate of 9% applies to revenue (income) other than from capital gains and may apply to:

- ✓ small taxpayers (taxpayers whose revenue does not exceed EUR 2,000,000),
- taxpayers commencing their activities (in the tax year in which they commenced their activities), with certain restrictions for entities resulting from certain restructuring operations.

Polish taxpayers are required to declare income from two sources: income from capital gains (dividends, share transactions, financial instruments, etc.) and income from other sources (mainly from operating activities).

### In order to recover tax losses carried forward from a particular source, a taxpayer may:

- reduce the income from that source over the following five years, but the amount of the reduction in any one year may not exceed 50% of that loss, or
- reduce once in each of the subsequent five years the income derived from that source by an amount not exceeding PLN 5,000,000, the unrecovered amount shall be reduced in the remaining years of that five-year period, provided that the amount of the reduction in any of those years shall not exceed 50% of that loss.

**The minimum tax** was introduced into the CIT Act as of 1 January 2022 as part of the so-called Polish Deal, but due to the political and economic situation, the legislator suspended the new regulations until 31 December 2023.

From 1 January 2024, entities subject to corporate income tax that incur operating losses or have a low rate of return (no more than 2%) on their operating activities are required to pay a 10% minimum tax using the classic method, calculated as:

- ✓ an amount corresponding to 1.5% of the value of the tax revenue from operating activities that was earned in a given year, and
- the amount of debt financing costs incurred on behalf of related entities exceeding 30% of tax EBITDA, and
- the amount of costs incurred for related entities or "tax haven" entities, costs of services or costs of using intangible rights more than PLN 3 million plus 5% of EBITDA.

A simplified method may also be used to calculate the minimum tax, whereby 3% of the value of the operating revenue that the taxpayer has earned in a given year is used as the taxable amount.

The minimum tax may apply to non-residents operating in Poland through a foreign permanent establishment. The new form of taxation will cover them to the extent that revenue and losses are related to the activities of such an establishment. In the case of foreign entrepreneurs, it will prove crucial to examine the nature of the activity conducted in Poland.

In terms of withholding tax (WHT), from 1 January 2022, the "pay and refund" mechanism is applied to receivables of a passive nature (dividends, interest, royalties, authors' fees) for payments to related parties exceeding PLN 2,000,000 per year.

### Reduced rates provided for in double taxation treaties or exemption from withholding tax will be available provided that:

- the entity obtains an opinion issued by the tax authorities on the application of reduced rates/exemptions, or
- the payer carries out a counterparty verification process ending with the submission of a special declaration.

### **Payment of the corporate tax:**

Depending on the chosen form of payment of advances for income tax (monthly or quarterly advances), the payment should be made by the 20th of each month for the previous month or by the 20th of the month following the quarter for which the advance is paid.

# Estonian CIT as an alternative for income taxpayers

The Estonian CIT (lump-sum tax on company revenue) consists in deferring the payment of the corporate income tax until the distribution of profits to shareholders. The tax is not paid periodically, but only when the company decides to distribute the profit. It is not an income tax, but more of a tax on profit distribution. The lump-sum taxation covers a period of 4 consecutive tax years indicated by the taxpayer in the notice. It is not permissible to opt out of the lump-sum during an ongoing financial year.

**Rates:** for taxpayers starting a business and small taxpayers (revenue up to EUR 2 million gross), the CIT rate is 10%. For other companies, the rate is 20%.

The tax on dividend distribution in case of a company taxed with Estonian CIT is paid on a preferential basis, i.e., it is subject to a deduction of:

- 90% of the amount of the company's tax due per share of the shareholder – in the case of a distribution by a company which is a small taxpayer
- 70% of the amount of the company's tax due per share of the shareholder – in the case of a distribution from a company that is not a small taxpayer.



### Small taxpayer

Revenue from sales < EUR 2,000,000

PROFIT		1.000
Regular CIT	<b>9</b> %	90
Estonian CIT	10%	100
PRIOR TO DIVIDEND PAYMENT		
Regular		910
Estonian		900

DIVIDENDS		
Estonian	19%	172,9
Estonian 1 (after 4 years)	19%	190
Tax credit – Estonian CIT	90%	-90
Estonian 2		100

### Large taxpayer

PROFIT		1.000
Regular CIT	19%	1.900
Estonian CIT	20%	2.000

### PRIOR TO DIVIDEND PAYMENT

Regular	8.100
Estonian	8.000

DIVIDENDS			
Regular	19%	1.539	
Estonian 1 (after 4 years)	19%	1.900	
Tax credit – Estonian CIT	70%	-1.400	
Estonian 2			

TOTAL TAX		
Regular	26,3%	263
Estonian	20,0%	200

TOTAL TAX		
Regular	34,4%	3.439
Estonian	25,0%	2.500



Estonian CIT is designed for entities with a simple shareholding structure, with a minimum of 3 employees (or 1 employee in the case of small taxpayers) and that generate revenue mainly from operating activities.

It is not possible to apply Estonian CIT together with reliefs (bad debt relief, R&D relief, tax preferences in the Polish Investment Zone and others).



# What is the Polish Investment Zone?

The Polish Investment Zone (In Polish: PSI) is a support instrument for investors that was introduced in 2018 and is intended to replace the existing Special Economic Zones. The programme enables companies carrying out new investments throughout Poland to obtain income tax (CIT/PIT) exemptions for a period of 10-15 years, amounting to between 10% and 50% of the value of the planned investment (the highest tax exemption applies to Eastern Poland – provinces of Lublin, Podlasie, Warmia-Mazury, and Podkarpacie).

# How are related party transactions dealt with?

In Poland, in line with OECD recommendations,
the so-called three-thiered transfer pricing
documentation has been implemented,
consisting of the following elements:
✓ local transfer pricing documentation,
✓ group transfer pricing documentation,
✓ Country-by-country reporting.



The local transfer pricing documentation (local file) is intended to demonstrate that transfer prices have been determined on an arm's length basis. In this documentation, taxpayers are required to present transactions with related parties or with tax havens. The obligation to prepare transfer pricing documentation in Poland for transactions between related parties applies to taxpayers, where such transactions of a homogeneous nature exceed an annual value of **PLN 2 million** or **PLN 10 million** – depending on the type of transaction, and in the case of tax havens – **PLN 2,5 milion** in the case of a financial transaction or **PLN 500 thousand** in the case of a transaction other than a financial transaction.

In addition, taxpayers belonging to groups are required to attach to such documentation also a group transfer pricing documentation (master file). Such documentation shall include information about the group, including its structure, the nature of its activities and its main group flows.

In addition, taxpayers belonging to large groups are also required to report on a country-by-country basis (country-by-country reporting).



### What is TPR reporting?

Transfer pricing information (TPR) is a set of information on transactions concluded between Related parties and by taxpayers with entities having their place of residence, registered office or the management board on the territory or in the country applying harmful tax competition (in the so-called tax havens).

TPR reporting is a transfer pricing obligation that for the first time applied to transactions executed from 2019. From the end of 2023, the document is submitted in electronic form to the head of the tax office (Naczelnik Urzędu Skarbowego) competent for the taxpayer, and not to the Head of the National Tax Administration, as before.

### **Deadline**:

As for documents filed for 2022, the deadline is 10 months after the end of the tax year for the Local File electronically and 11 months for the TPR and the statement.

# What is personal income tax (PIT)?

All natural persons residing in Poland are subject to this tax on their entire income derived from Polish sources. This tax is deducted at source on a monthly basis and it is a progressive tax:

Taxable amount (*)	Tax rate
Less than PLN 120,000	17.00%
More than PLN 120,000	32% on the surplus over PLN 120,000 + PLN 15,300

(\*) The taxable amount is the gross remuneration from the beginning of the year less deductible costs and social security contributions (pension and disability insurance, as well as sickness insurance – employee share).

In the case of sole proprietorship, the entrepreneur may choose a flat tax of 19%.

Married couples may opt for taxation on the basis of joint taxable income, subject to progressive taxation. If one opts for flat rate taxation, one's tax return must be prepared individually.

Similarly, children are not included in the taxable amount or tax amount.

It should be noted that it is the employer who deducts and pays each month the PIT due for the employee; the employee must only file their tax return.



Which employment costs are borne by the employer and which by the employee? The employer is required to report the recruitment of an employee to the regional office of the Social Insurance Institution (ZUS) within 7 days after the commencement of work by the <u>employee</u>.

Social security contributions are currently divided as follows:

Contributions per year (% of the	Employee	Employer	Employee	Employer
salary)	Basic	rate	Reduce	d rate (*)
Social security / pension insurance (*)	9,76%	9,76%	-	-
Social security / disability insurance (*)	1,50%	6,50%	-	-
Social security / sickness insurance	2,45%	-	2,45%	-
Social security / accident insurance (**)	-	0,67%-3,33%	-	0,67%-3,33%
Labour Fund	-	2,45%	-	2,45%
Guarantee fund	-	0,10%	-	0,10%
Social security / health insurance	9%	-	9%	-
TOTAL	22,71%	19,48%- 22,14%	11,45%	3,22%-5,88%

(\*) The annual base for calculating pension and disability insurance contributions may not exceed an amount equivalent to 30 times the average monthly salary predicted for a given calendar year in the national economy.

Limit set up annually, for 2023: PLN 208,050

Limit set up annually, for 2024: PLN 234,720

(\*\*) Rate revised annually in April. The rate applicable to companies with fewer than 10 employees for the period 04.2023-03.2024 is 1.67% (50% of the maximum rate for the given year). The rate that other companies can apply depends on the sector of activity and is set by the Social Insurance Institution (ZUS).

The contributions shall be payable on the 15th of each month for the previous month. The statutory working time is 40 hours.



There is a tax that is deducted from the salary for financing the fund for the rehabilitation of people with disabilities (PFRON – State Fund for Rehabilitation of Disabled Persons). This tax applies to companies employing more than 25 people. It is possible to reduce this tax by employing disabled persons, or by using the services of external companies employing disabled persons. The amount of this tax varies and is calculated as follows: the number of disabled people which as a rule should be employed \* average monthly salary in the company \* 40.65%.

From 1 July 2019, Polish employers are required to join a supplementary pension scheme – the Employee Capital Plans (In Polish: PPK). Implementation of the programme started with the largest companies with at least 250 employees. From 1 January 2021, the PPK is mandatory for most business activities. The PPK is a savings system that increases the financial security of Polish citizens in retirement. Mandatory contributions amount to 3.5% (2% employee and 1.5% employer) of the monthly salary declared to the Social Insurance Institution (ZUS).

In the case of a sole proprietorship, the entrepreneur may opt for a flat tax, calculated on the generated profit at the rate of 19%, or a lump-sum on registered income, calculated on the basis of the generated revenue.

Individual lump-sum rates are assigned to revenue from specific industries and range from 2% to 17%.

From 2022, new rules apply to the payment of health insurance contributions by entrepreneurs. The amount of the health insurance contribution for those settling accounts on the basis of the flat tax and earning income in 2024 higher than PLN 7,791.30 is 4.9% of the company's income. When an entrepreneur incurs a loss or generates a profit of less in 2024 than PLN 7,791.30, they must pay PLN 381.78 in health insurance contributions.

Entrepreneurs who are taxed according to the tax scale must pay a health insurance contribution in the amount of 9% of their income. When an entrepreneur incurs a loss or generates a profit below the minimum wage, which in 2024 is PLN 4,242, they must pay PLN 381.78 in health insurance contributions.



In the case of a lump-sum on registered income, the health insurance contribution has a fixed amount and depends on the revenue. The lump-sum health insurance contribution is:

Revenue per year	Health insurance contribution amount in 2024
up to PLN 60,000	PLN 419.46 – 9% of the amount of 60% of the average salary
from PLN 60,000 to 300,000	PLN 699.11 – 9% of the amount of 100% of the average salary
more than PLN 300,000	PLN 1,258.39 – 9% of the amount of 180% of the average salary

The amount of full Social Security (ZUS) contributions for entrepreneurs in 2024 is presented in the table below:

	total contributions payable with sickness insurance	total contributions payable without sickness insurance
Social security (ZUS) contributions for entrepreneurs	PLN 1,600.32 + health contribution 2024	PLN 1,485.31 + health contribution 2024
Social security (ZUS) contributions for new companies (from January to June)	PLN 402.65 + health contribution 2024	PLN 371.47 + health contribution 2024
Social security (ZUS) contributions for new companies (from July to December)	PLN 408.16 + health contribution 2024	PLN 376.55 + health contribution 2024

# What is value added tax (VAT) and who pays it?

Value added tax, otherwise known as VAT, is a levy that applies to both vendors and purchasers, as its value is added to the net value of the purchase/sale transaction.

### The basic rate is **23%**.

The law provides for several exceptions:

- 5%-rate for products such as: fresh bread, dairy products, meat, grain products (flour, groats, pasta), juice and books published on electronic media and professional magazines;
- 8%-rate for, inter alia, certain processed food products, goods related to agricultural production, health care, services related to recreation, sports, housing;
- From 1 January 2023 until 31 March 2024, a reduced VAT rate (from 5% to 0%) will apply to basic foods such as meat, fish, dairy, vegetables, fruit, flour or fats;
- From 1 January 2023 until 31 December 2024, a reduced VAT rate of 8% will apply to goods used in agricultural production, for example soil conditioners, growing media or soil improvers.

### **Deadline:**

Depending on the chosen form of payment of advances for income tax (monthly or quarterly advances), the payment should be made by the 25th of each month for the previous month or by the 20th of the month following the quarter for which the advance is paid.

At the beginning of 2023, regulations regarding the VAT group, i.e. collective VAT returns for related entities, entered into force. The VAT group shall consist of at least 2 entities, one of which will be the group representative. This solution is intended for two or more legal persons with their registered office in the territory of Poland, which, being legally independent entities, are closely linked with each other in financial, economic and organisational terms.

### Such structure will provide the following opportunities:

- consolidation of VAT transactions (VAT transactions carried out by or on behalf of a VAT group member in transactions with third parties – outside the group – are considered to be carried out by the entire VAT group),
- the supply of goods/the provision of services by one group member to another member of the same group shall not be subject to VAT.

### National e-Invoicing System (in Polish: KSeF)

It is likely that the National e-Invoicing System will become mandatory in the second half of 2024. Currently, its use is voluntary. Launched in Poland at the beginning of 2022, the platform enables the issuance, receipt and storage of structured invoices. The entity responsible for receiving, storing, providing access to e-invoices will be the National e-Invoicing System.

KSeF provides the following benefits to the company:

- ✓ shorter VAT refund time 40 days instead of 60,
- ✓ no need to issue duplicate invoices,
- ✓ greater capacity for adjusting invoices,
- reduced obligations it will no longer be necessary to send JPKs (Standard Audit File-Tax) for invoices, i.e. JPK\_FA,
- certainty that the invoice has been issued by an entity authorised to do so and that it will be received by the addressee,
- business operations are streamlined by replacing paper invoices with digital ones,
- money is saved on storage and archiving of e-invoices for a period of 10 years, these services are provided by the authorities.

The National e-Invoicing System (KSeF) enables the issuing of sales invoices and the downloading of purchase invoices from the government platform. In simple terms, the process of using KSeF is as follows:

- the entrepreneur creates the invoice in their invoicing system,
- they send it to KSeF, and then, after processing, that invoice is recognised as an issued invoice,
- the purchaser downloads this invoice from their KSeF account and can book it into their company's accounting records.



# What are the criteria for audit of the financial statements?

Exceeding 2 of the 3 audit thresholds (employment of 50 employees/balance sheet total of EUR 2.5 million/turnover excluding tax of EUR 5 million made in the previous financial year) entails a statutory obligation to have the financial statements audited by a statutory auditor.

# What kind of employee benefits one can have in Poland?

The most popular employee benefits in Poland are all kinds of health benefits – insurance, private medical care or sports packages, which are co-financed by the employer.

Subsidised training, foreign languages classes, discounts and shopping vouchers, cinema tickets are also popular.

# Useful links and useful sources of additional information:

- Website of the Republic of Poland: <u>www.gov.pl/</u>
- Information and services website for entrepreneurs in Poland: <u>www.biznes.gov.pl/p</u>
- National Bank of Poland: <u>www.nbp.pl/</u>
- Central Statistical Office: <u>www.stat.gov.pl/</u>



# What makes us stand out?

### **ALWAYS CLOSE TO CLIENTS**

The strengths of the company are **high and uniform standards**. We maintain proximity and accuracy in our daily work with clients, which allows us to maintain **consistency and identical quality**, **regardless of location**.

### METHODOLOGY

We are focused on the **methodology of accounting and accounting technology**, while respecting the laws and regulations relating to the profession, as well as the rules defined by the Higher Council of Chartered Accountants.

### **OUR QUALITY CHARTER**

We are chartered accountants, so we offer our clients much more than just technical skills. We make sure to guarantee **security and transparency of our expertise** and to apply the provisions of the code of ethics of the profession.

### CONSCIENCE

Our teams do their job using all of their **competence**, **professional awareness and freedom of thought**. Under no circumstances do they allow actions which might be contrary to honesty, honor and dignity.

### INDEPENDENCE

Members of our network must be deprived of any external connection being of a personal, professional or financial nature, that could be interpreted as standing in the way of their integrity or objectivity.

# EXCO A<sup>2</sup>A Polska

# Contact

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