

**Polska**



# Taxes: Taxion of individuals

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Taxation of individuals include information about: personal income tax, inheritance and donation tax.



### Personal Income Tax

Entity of taxation:

- individual (natural person) that is a partner in a limited partnership or registered partnership,
- natural person conducting economic activity - the sole proprietor,
- an individual.

According to the Polish Personal Income Tax Act, all individuals are liable to tax their income by PIT, but depending on their residence status, the tax liability can be unlimited and limited. The first of these refers to the worldwide income of a resident - an individual who has his centre of economic or vital interest in Poland or stays in Poland for longer than 183 days in a calendar year. The second concerns a non-resident's income that arose or was sourced in Poland.

### Transfer Pricing

In the Polish Personal Income Tax Act there are analogous provisions relating to transfer pricing as in Corporate Income tax Act.

Taxpayers:

- Carrying on non-agricultural economic activity or special branches of agricultural production that, in a tax year and in the year preceding the tax year, keep and kept account books and affecting transactions in a tax year with related subjects or recognizing in a tax year in their account books other: events whose conditions were determined (or imposed) with related subjects, having significant influence on the amount of income (loss) and whose revenues or costs exceeded in the year preceding the tax year the equivalent of EUR 2,000,000; or
- Directly or indirectly, making payment of dues for the benefit of a subject having its place of residence, seat or management office in a territory of or in a country applying harmful tax competition, based on

transactions or another event recognized in tax books, if the total amount (or its equivalent) under a contract or the total amount of matured performances actually paid in the tax year is in excess of the equivalent of EUR 20,000; or

- Concluding the following deeds or contracts with a subject whose place of residence, seat, or management office is in the territory of or in a country applying harmful tax competition:
  - A deed of a partnership, where the total value of the contributions made by the partners exceeds the equivalent of EUR 20,000; or
  - A contract of joint undertaking or another contract of a similar nature, in which the value of the undertaking implemented jointly and determined in the contract, and, in the absence of it being determined in the contract – foreseen as on the day of concluding the contract, exceeds the equivalent of EUR 20,000.
- shall be obliged to draw up tax documentation for those transactions or other events.

In the case of a partnership, the revenue and expense thresholds will be set for the partnership. Taxpayers who earn revenue from participation in a partnership will be entitled to designate a partner established in Poland to compile the transfer pricing documentation of transactions and other dealings disclosed in the books of account. Nevertheless, designating such a partner will not exempt the other partners from the obligation of delivering the transfer pricing documentation on demand.

Income source	Tax rate
<ul style="list-style-type: none"> <li>- employment contracts,</li> <li>- civil law agreements,</li> <li>- activity performed personally (e.g. members of board of directors),</li> <li>- business activity (self-employed) – unless the linear taxation is declared,</li> <li>- rental,</li> <li>- other.</li> </ul>	-18% up to 85,528.00 PLN and 15 395.04 PLN + 32% for the surplus over 85,528.00 PLN - the tax credit amounts to maximal 1,188 PLN and decreases as the amount of the income increases.
<ul style="list-style-type: none"> <li>- business activity (self-employed) – after the declaration of the linear taxation,</li> <li>- capital gains, interests.</li> </ul>	-19%
<ul style="list-style-type: none"> <li>- non-residents' income due to licence dues (withholding tax) and intangible services.</li> </ul>	-20%
examples of exempt income: <ul style="list-style-type: none"> <li>- return of business trip costs, like per diem, travel and accommodation expenditures,</li> <li>- expenses paid by an employer for education and enhancement of qualifications of his employees,</li> <li>- the value of some benefits paid by an employer due to an accommodation of employees.</li> </ul>	exempt

Source: Polish Investment and Trade Agency, *Poland your business Partner. Invest in Poland, 2016.*

## Subject of taxation

Polish regulations define a lot of income sources. As a rule, profit from each source is calculated separately. Profit is an amount of surplus between revenues and tax-deductible costs, received in a fiscal year. If the amount of tax-deductible costs exceeds the amount of income, the difference is a loss. If a taxpayer incurs a loss, he can reduce the profit in next following five years by the amount of this loss, but the reduction cannot be higher than 50% of the loss in one year. It does not apply to loss payable on disposal of items, properties and rights connected to properties.

The Polish legislator excluded some income and costs from the taxation subject; therefore they cannot be taken into consideration by calculating the profit. Additionally, in some cases regulations of double treaties, of which Poland is part, can change the status of an individual, and therefore the country of taxation of some income sources, or reduce tax rates, e.g. for dividends, interests or licence dues.

The definition of revenues includes, among others, due revenues, even if they are not received, excluding payments in advance, and free and partially free benefits.

The deductible costs for people who do not run a business activity are strictly defined in the Act, e.g.:

- 50% of income for activities related to exploiting copyrights,
- the annual lump-sum cost, that in 2016 amounts to PLN 1,335 for employees,
- 20% of income for civil law agreements,
- social insurances,
- expenses for rehabilitation purposes.

## **Obligations**

The tax year for all individuals is the calendar year. During the year, income tax payers are obliged to pay a tax advance before the 20th day in the month following the month in which the tax obligation arose or, in the case of 'small' taxpayers, before the 20th day of the month following the quarter in which the tax obligation arose. Additionally, a taxpayer is obliged to submit an annual tax declaration before April 30th following the year in which the tax obligation arose.

In the case of the remuneration of employees, an employer is obliged to calculate, deduct and pay the monthly tax advances to a competent tax office. Individuals who receive any income from abroad are obliged to calculate and pay monthly tax advances themselves.

## **Tax rates**

Married couples and sole parents are entitled to tax their income individually or jointly, if certain conditions are met, excluding the case in which one of them is taxed by the linear rate.

The PIT Act allows a number of exemptions or lower tax rates for income/profit generated by non-residents in Poland. Therefore, a non-resident's place of residence and regulations of double tax treaties, of which Poland is a part, should be taken into consideration when settling the final tax rate.



## Inheritance and donation tax

### Subject of taxation

Acquisition by individuals of ownership of items located in Poland or of property rights exercised in Poland due to:

- inheritance, legacy,
- donations,
- the gratuitous cancellation of joint ownership.

### Tax base

Value after the deduction of debts and burdens calculated according to the condition of an item or a property right on the acquisition date and market prices on the tax obligation date.

### Tax rate

Depends on the personal relation a receiver to a person, from whose items or property rights were acquired. As a rule, the further relation between these, the higher the applicable tax rate. This ranges between 3% and 20%. The tax is calculated as the surplus in taxable base over the tax allowance amount, with the use of the above tax rates from the scale.

The legislator foresees some exemption from inheritance and donation tax, e.g.:

- the acquisition of property or property rights by the members of the closest family: spouse, successor, ascendant, stepchild, siblings, stepfather, stepmother and after fulfillment of additional conditions otherwise the taxation in accordance with the general rules mentioned above,

- the acquisition of a flat or a block of flats - for the amount of 110 m<sup>2</sup>, but only after the fulfilment of certain conditions,
- the acquisition of an item or a property rights from one person during the last five years - up to total amount of PLN 9,637, depending on the personal relation between a receiver and the person from whom items or property rights were acquired.

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Source: Polish Investment and Trade Agency, *Poland your business Partner. Invest in Poland, 2016.*



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