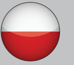
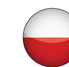
TAXAND



POLAND

POLAND



1. INTRODUCTION

a. Forms of Legal Entity

Corporations in Poland can be formed as either a limited liability company or a joint-stock company.

- Limited liability company - The most common type of corporation is a limited liability corporation. It can have one or more shareholders. The minimum share capital is PLN 5,000. The company is a Corporate Income Tax (“CIT”) and VAT payer.
- Joint stock company – A joint stock company can be founded by one or more entities (natural or legal persons). The minimum share capital is PLN 100,000. The company is a CIT and VAT payer.

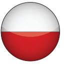
In general, there are no substantial tax differences between limited liability company and joint stock company. The general legal differences are presented below.

	Limited liability company	Joint-stock company
Share capital	5 000 PLN	100 000 PLN
Governing bodies	Management Board (one or more board members / daily management of the company) Shareholders Meeting (usually key decisions such as acquisition of real estate etc., appointment of board members / ordinary written form)	Management Board (one or more board members / daily management of the company) Supervisory Board (usually have the power to appoint board members) Stockholders Meeting (usually key decisions such as acquisition of real estate etc. / form of notarial deed required)
Supervisory board	Optional (in principle)	Obligatory
Reserve capital do cover potential loss	Optional	Obligatory (up to 1/3 of the registered stock capital)
Liability of the board members for liabilities of the company	Members of the management board can be held liable for the company’s liabilities	Not regulated
Possible to register via website	Yes	No

Partnerships: The most common partnerships for business purposes are a general partnership, a limited partnership, or a limited joint-stock partnership.

- General partnership – A general partnership can be founded by at least two entities (individual or legal). It does not have legal personality but has legal and judicial capacity. There are no minimum capital requirement. The general partnership is tax transparent for income tax purposes (the partners are income taxpayers) but it is VAT payer.

POLAND



- Limited partnership – A limited partnership can be founded by at least two entities (individual or legal). It does not have legal personality but has legal and judicial capacity. There are no minimum capital requirements. The limited partnership has a general partner with unlimited liability and a limited partner that is liable only for a specified amount indicated in the articles of association, which however can differ from the amount of capital investment made. As from 2021 limited partnerships are now CIT payers and VAT payers. Previously the limited partnership itself was a VAT payer and the partnership itself was tax transparent for income tax purposes.
- Limited joint-stock partnership – A limited joint-stock company can be founded by at least two entities (individual or legal). It does not have legal personality but has legal and judicial capacity. The minimum share capital is PLN 50,000. Limited joint-stock partnership has an active partner and a shareholder (provider of capital) who is a passive partner. The general partner has unlimited liability for the partnership's obligations while the shareholder is not liable for its obligations. Limited joint-stock partnership is subject to CIT and VAT.

b. Taxes, Tax Rates

- **Corporate Income Tax ("CIT")**

The standard CIT rate in Poland is 19% flat rate. The CIT rate for taxpayers whose revenues do not exceed 1.2m and have the status of small taxpayers and for taxpayers starting their activity (in the first tax year) is 9% CIT (with some exceptions, e.g. if the taxpayer was created upon restructurings). The 19% rate applies both to operating and passive income, however with respect to passive income WHT provision should be considered.

Polish tax residents are subject to CIT on their worldwide income and non-Polish tax residents are subject to CIT solely with respect to income obtained in the territory of Poland.

- **Personal Income Tax ("PIT")**

PIT is calculated on a progressive scale as follows:

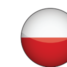
  - taxable base up to PLN 85,528 – 17% (minus tax reducing amount)
  - taxable base higher than PLN 85,528 – tax is 14 539.76 + 32% of the surplus over 85 528 (minus tax reducing amount)
  - 19% - e.g. for capital gains, dividends, CFC income, derivatives.

- **VAT**

The VAT rates are as follows:

  - 23% - standard VAT rate
  - 8% - reduced VAT rate applicable to e.g. to supply of certain foodstuffs, medical products, restaurant and hotel services
  - 5% - reduced VAT rate applicable to e.g. supply of certain foodstuffs (e.g. bread, dairy products, meats), certain kinds of printed books
  - 0% - applicable to export of goods and EU intra-community supply of goods and e.g. international transport (under certain conditions)

POLAND



- **Real Estate Tax ("RET")**

The RET imposed on buildings and plots of land is generally based on the area of the building / plot. The rates of RET are determined by the appropriate local authority. The maximum allowable rates are specified in the RET Act. RET for structures is 2% of the initial value of the structure paid annually.

- **Civil Law Activity Tax ("CLAT")**

The CLAT rates are as follows:

  - 0.5% - applicable to e.g. increase of share capital, loans
  - 1% - applicable to e.g. purchase of property rights including purchase of shares
  - 2% - applicable to e.g. purchase of real estate, movables
  - In general, CLAT should be collected and paid by the acquiror, however if the civil law transaction is being made the form of notarial deed, CLAT should be collected by the notary (still, charged from the acquiror).

c. Common divergences between income shown on tax returns and local financial statements

Common permanent differences between financial and tax results include accounting provisions, donations exempt from income tax, and non-tax-deductible costs envisaged by the CIT Law (e.g. representation costs).

Common temporary differences between financial and tax results include accrued interest, non-realised foreign exchange differences, differences between financial and tax depreciation and amortisation rates.

2. RECENT DEVELOPMENTS

The most important recent tax developments are:

a. Changes in the principles for collecting withholding tax ("WHT"):

In general, certain payments (e.g. dividends, interest, royalties, payments for intangible services such as consulting, accounting, market research, legal services, advertising, management, control, data processing) made to the benefit of a foreign entity are subject to 19% / 20% WHT. However, if certain conditions are met the payment could benefit from the WHT exemption, preferential rate or could be out of scope of WHT on the basis of EU Directives or Double Tax Treaties. Such obligation is imposed for tax remitters whether they are a corporation, an individual or organisational units without legal personality (therefore it could also apply to a Polish permanent establishment).

POLAND

Under new regulations, for payments below PLN 2,000,000 (in a given year to a given taxpayer), there is additional documentation / internal procedures needed to benefit from the exemption/lower WHT rates. For payments over PLN 2,000,000, the tax remitter will be obliged to collect WHT on the surplus of over PLN 2,000,000 under the domestic 19% / 20% rate. The taxpayer / tax remitter (in certain cases) will be allowed to claim for WHT overpayment. The refund procedure can take up to 6 months and would require the taxpayer to provide substantial documentation. The new law provides for two exceptions: (i) the tax remitter's board member gives representations on meeting the WHT conditions (under the fiscal penal code) (ii) the taxpayer obtains an opinion from the tax authority on the application of the WHT exemption (only for payments subject to EU Directives) which is valid for 36 months. For payments above PLN 2,000,000 the regulations are suspended until 31 December 2020.

b. Exit tax:

Introduction of tax for both corporate entities and individuals on the transfer of assets abroad within the same taxpayer / change of residency of taxpayers being Polish tax residents. The CIT rate is 19%, PIT rates are 19% or 3% (in special cases) levied on so-called unrealised profits calculated as the difference between the fair market value of the transferred assets and their tax value.

Transfer of certain assets such as (i) assets intended for professional use by employees, related directly to the work performed, not being fixed or current assets within the meaning of accounting provisions, or (ii) assets donated in benefit of public benefit organisation (some additional conditions has to be met), could be exit tax exempt. In general, real estate should not be a subject to exit tax, due to the fact, that the Polish tax authorities do not lose the right to tax income from the disposal of such asset.

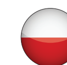
c. Introduction of Mandatory Disclosure Rules:

From 1 January 2019 Mandatory Disclosure Rules ("MDR") came into force to the Polish tax system. MDR imposes an obligation to report domestic and cross-border tax arrangements to the Polish tax authorities. The obligation to report tax arrangements falls on the intermediaries / relevant taxpayers / assisting entities. The reporting responsibilities cover not only aggressive tax structures, but also ordinary activities leading to obtaining lawful tax benefits.

The tax arrangement is to be considered as an activity or set of activities that meet the following conditions:

- **a general hallmark** (e.g. carrying out actions based on the standardised documentation, arrangements resulting in change in the income classification or taxation rules, circular flow of money because of entities not fulfilling material functions or activities cancelling each other) **and meet the main benefit test**; or
- **a specific hallmark** (e.g. the same income / asset benefits from the methods of avoiding double taxation in more than one country, transfer of hard-to-value intangibles, non-transparent ownership structure or beneficial owner hard/impossible to be identified, intra-group transfer of functions/risks/assets, while the projected EBIT of the transferor during a three-year period would be less than 50% of the annual EBIT if the transfer had not been made); or
- **other specific hallmark** (e.g. Polish income tax remitter would be obliged to collect WHT exceeding PLN 5,000,000 if the lower tax rate / WHT exemption would not apply).

Meeting the main benefit test is a situation where the entity or person acting reasonably and pursuing legitimate goals other than obtaining a tax advantage could reasonably choose a different course of action and the planned benefit is the main or one of the main that the entity expects to achieve from certain action.



d. Innovation Box:

New regulations introduced a 5% preferential (CIT/PIT) rate for qualified income obtained from certain intellectual property rights (mainly registered ones, e.g. patent rights) and rights to computer programs, which do not require registration.

e. Notional Interest Deduction:

New regulations allow for deduction for tax purposes of "virtual interest" on profits allocated to share premium / reserved capital and additional payments (cash injections) provided to the company up to PLN 250,000 per year (up to 3 years).

f. COVID-19 measures : Introduction of the "Anti-crisis Shield"

Due to the COVID-19 crisis, on 31.03.2020 an act referred to as "Anti-crisis Shield" was published in the official Journal of Poland. Most of provisions provided by the act already entered into force as of 31.03.2020.

The "Anti-Crisis Shield" was then updated through new amending laws i.e on 16.04.2020 amendment to "Anti-crisis Shield" was published, providing some additional solutions for business (so called "Anti-crisis Shield 2.0"), "Anti-crisis Shield 3.0" published on 15.05.2020, "Anti-crisis Shield 4.0" published on 23.06.2020

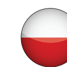
The whole aid package ("Anti-crisis shield" Act, as well related acts and resolutions) address 5 main pillars including different areas of the economy. The value of the package is estimated at PLN 212 billion (€ 47.3 billion), i.e almost 10% of the Polish GDP (c.a. PLN 60bln covered from the state budget, remaining amount covers providing additional liquidity to the market in the form of, for example, state backed guarantees for medium and large business, up to 80%).

It should be noted that certain measures may be discussed from the perspective of state aid and as such may be subject to certain limitations.

Tax and legal measures resulting from all Anti-Crisis Shields cover in particular:

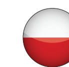
- Deferral of yearly CIT for 2019 until 31.05.2020 – tax return plus payment of tax (standard term: 31.03.2020).
- Payment of yearly PIT for 2019 and submission of PIT return for 2019 until 31.05.2020 (instead of 31.04.2020) will not be subject to penalty interest or penalised under fiscal penal code.
- Postponement until 20.08.2020 PIT advances for March 2020 until 20.10.2020 PIT advances for April 2020, until 20.12.2020 – PIT advances for May 2020, due on salaries and social security payments for remitters who suffered negative economic consequences in connection with the COVID-19 outbreak.
- Unconditional exemption of payment of the so-called minimum tax (special tax on commercial real estate) due for 1 March – 31 December 2020.
- Application of the new WHT regime, imposing automatic collection of the 19% or 20% WHT on certain payments (passive and certain services) – unless relevant board members statement is signed or security opinion – obtained is suspended until 31.12.2020
- Potential tax exemptions from the real estate tax to entrepreneurs whose financial liquidity has worsened due to COVID-19 – to be introduced by local governments.

POLAND



- On request:
  - exemption from 100% social security contributions for 3 months starting 1.03.2020 for self-employed if their revenues were lower than c.a 15 k PLN, as well for companies that declared up to 9 persons as subject to social security contributions,
  - exemption from 100% social security contributions for 2 months starting 1.04.2020 for self-employed if their revenues were higher than c.a 15 k PLN, but their tax income was lower than 7 k PLN,
  - exemption from 50% of social security contributions for 3 months starting 1.03.2020 for companies that declared up to 10-49 persons as subject to social security contributions.
- No prolongation fee (currently 4%) for applications for postponement / splitting into installments of tax payments or tax arrears or postponement / splitting into installments of liabilities resulting from social security contributions due for the period starting 01.01.2020.
- If certain conditions are met possibility to make a one-off deduction of 2020 tax loss, up to PLN 5,000,000 through adjustment of 2019.
- Certain tax benefits such as one-off depreciation of fixed / intangible assets or amended rules of R&D relief for taxpayers incurring expanses aimed at countering COVID-19 effects.
- SAF-T_VAT: postponement to 1 October 2020.
- Retail sales tax: suspension to 31 December 2020.
- New VAT rates matrix: postponement to 1 July 2020.
- Possibility to treat as tax deductible contractual penalties if they result from the obstacles caused by the COVID-19.
- Postponement of the obligation to notify the actual ultimate beneficial owner to the UBO register for 3 months.
- Suspension of the deadlines for domestic DAC-6 reporting running from March 31 up to 30-days after cancellation of the epidemic state. Deadlines for reporting of the cross-border arrangements will start to run as of 30 June 2020.
- The deadline for submitting transfer pricing information (TPR-C and TPR-P forms) as well as the statement on preparation of local transfer pricing documentation for FY2019 is extended until - in general - 31.12.2020. The deadline for preparing the Master file documentation also extended by three months.
- Extension of the deadline for submitting detailed TP from (TP-R) to 30 September 2020 as well as local and master file (till 31.12.2020)- for selected entities with so called shorten tax year.
- For Tax Capital Groups: condition of lack of tax arrears as well as to maintain 2% profitability ratio are considered fulfilled if the Tax Capital Group’s condition worsened due to COVID-19 for the tax year commenced before 1.01.2020 and finished after 31.12.2019 or that commenced after 31.12.2019 but before 1.01.2021.
- Extension for 3 months of the deadline for issuing an individual tax ruling for applications submitted but not resolved before the entry into force of the law and also for the applications submitted after the entry into force of the law.

POLAND



- Changes in regulations of Commercial Companies Code enabling the possibility of making decisions by board of directors and supervisory board in remote mode.
- Postponement of deadline for preparation and approval of financial statement / consolidated financial statement by 3 months (or 2 months for entities subject to supervision of Polish Financial Supervisory).
- During the state of epidemic and 2 months after, for WHT purposes: (i) possibility to use the copy of the certificate of residency of the foreign taxpayer, if the data provided in the certificate does not raise doubts (ii) possibility to use the certificate of residency of the foreign tax payer for 2019 (statement of the ta payer that the data provided in the certificate remain unchanged is required) (iii) extension of validity of certain certificates of residency.
- Introduction of temporary protection for a specific group of the Polish entrepreneurs including public companies, against takeovers by entities not being a member of the EU, EEA or OECD. The protection covers entities whose revenue from sale of goods and service provision exceeded the equivalent of €10,000,000 in any of the two financial years preceding the notification.

g. COVID-19: Social (employees') measures

- The "Anti-Crisis Shield" provides for three possible paths to obtain additional financing for employees' salaries. Co-financing program is dedicated for enterprises with qualified decrease in turnover.
  - co-financing under so-called downtime. Maximum co-financing: c.a 280 EUR+ social security contributions / per FTE,
  - co-financing of employees' salaries under so called "40:40:20" system – reduced working time. Maximum co-financing: up to c.a. 440EUR+ Social security contributions / per FTE,
  - subsidies from the Poviate Governor (Starosta). Maximum co-financing depends on the percentage of turnover dropdown.
- Further conditions to use any of those paths apply. Financing /subsidy can be granted for 3 months.
- There is also an option to obtain a co-financing for the employees that were not covered by the economic downtime or reduced working time.
- Extension of temporary residence permits for foreigners on the territory of the Republic of Poland.

3. SHARE ACQUISITION

a. General Comments

Share deals are a common acquisition structure in Poland. The acquisition may be also conducted via merger of the companies.

The latter may be more beneficial from the tax point of view (under relevant circumstances it can be conducted as tax neutral) but is used mainly in group transactions.

For clarity, please note that the tax consequences of a deal will be different for the sale of the shares in a corporation and the sale of a partnership interest.

b. Tax Attributes

In general, a tax loss may be fully carried forward for 5 years. A tax loss resulting from one source of income may only be deducted from income from the same source. In general, the amount deducted in one year cannot exceed 50% of the total loss. However, if the tax loss does not exceed PLN 5,000,000 it could be deducted once in a given year.

Change of control does not affect the right to utilise tax losses of the acquired company under a share deal. Certain restrictions on utilisation of losses exist in respect to other forms of acquisitions. In particular losses of entities disappearing under merger, spin-off, liquidation or division are lost for tax purposes.

c. Tax Grouping

Polish CIT Law allows a group consisting of at least two capital companies with capital relationships to be viewed as a single CIT payer i.e so-called Tax Capital Group ("TCG"). The CIT provisions include a number of requirements that have to be fulfilled to establish the TCG (and during its functioning), e.g. it should consist solely of the Polish corporations, the parent entity should hold directly at least 75% of the shares in subsidiaries, subsidiaries do not hold any shares in the share capital of other entities within the group and the entities do not have any outstanding tax liabilities. In general, the main reason behind the establishment of the TCG is a consolidation of tax results of its members.

Consolidation of the tax result can be also achieved in a structure involving a holding company having profits (shares) in a partnership running a business activity.

d. Tax Free Reorganisations

Under the Polish CIT law, in kind contributions of a going concern, mergers, divisions, spin-offs and exchanges of shares may be performed free of tax based on the domestic provisions implementing Merger Directive (90/434/EEC). The possibility for tax neutral reorganisation comprises also cross-border mergers of capital companies.

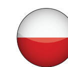
The domestic provisions provide for specific conditions for neutrality of mergers (the operation is CIT neutral provided that the surviving company holds at least 10% of the shares of the company disappearing through the merger or does not hold any shares in the latter). Spin-offs and divisions are neutral provided that both the assets carved out and staying in the divided company constitute organised parts of an enterprise.

Due to specific anti-abuse regulations, tax neutrality of mergers, spin-offs or exchange of shares only apply provided that business justifications for these operations are assured. Moreover, please note that Polish transfer pricing regulations allow the tax authorities to examine the arm`s length conditions of remunerations in relation to restructuring between related entities (including an exit charge or a lack of it thereof). It should be highlighted, that there is no specific form to be submitted in order to benefit from the tax neutrality of reorganisation, however a defense file indicating the business justification of the reorganisation should be prepared and archived in case on potential future tax audit.

e. Purchase Agreement

The common structure for the acquisitions in Poland was purchase of the company by the SPV with the subsequent debt push down. Due to changes in the Polish CIT Law in 2018 denying interest deductibility on the debt pushdown, such structure currently is not recommended from a tax perspective.

Poland follows EU and international standards.



f. Transfer taxes on share transfers (including mechanisms for disclosure and collection)

Acquisition of shares in a Polish company is subject to Civil Law Activities Tax ("CLAT") at 1% (on FMV of the shares) on the side of the buyer. Acquisition of shares in a foreign company by a Polish entity will be also subject to 1% CLAT if the SPA is concluded in Poland.

CLAT should be paid by the purchaser and CLAT return should be submitted to the tax office within 14 days from the transaction.

g. Applicability of "purchase accounting" to a direct or indirect acquisition of shares

Purchase accounting is a default approach under Polish Accounting Regulations. Pooling of interest accounting is an allowed alternative for business combinations under common control.

In general, the acquired company should close its books. However, if the merger is performed according to the pooling of interest method and under the merger no new company is established, the books may not be closed. In case of mergers as a result of which there is no loss of control over them by their current shareholders, the pooling of interest method may be applied.

As a result, in the acquired company the tax year does not end, books are not closed, and the annual CIT return is not filed at the moment of the merger. It also means that revenues and tax-deductible costs of the given year of both companies can be settled jointly.

h. Share Purchase Advantages

Under Purchase accounting assets and liabilities of the acquired company are valued at fair value as of the merger date in the accounting records of the merged entity. As a result of merger, general succession rules apply, which mean full continuation of tax settlements, including initial value of tax assets and liabilities.

In case of share deals, it is recommended that the target company obtains a certificate issued by the tax authorities confirming that the Target has no outstanding tax liabilities. Such certificate however does not provide any formal protection but is an indication that all taxes declared by the target company have been paid. There is no legal possibility to separate the liability of the target company from its tax liabilities arising prior to acquisition.

i. Share Purchase Disadvantages

Cost of assets' valuation and identification of undisclosed assets, obligatory audit of the financial statements for the period when the merger occurred without any exemptions for small entities.

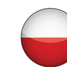
4. ASSET ACQUISITION

a. General Comments

Despite the possibility of structuring as a share deal, the transactions may be structured as (i) a going concern deal or (ii) an asset deal. Such transactions are conducted in particular in real estate industry.

Going concern (organised part of an enterprise) is a combination of both tangible and intangible items (including liabilities) which – in organisational and financial terms – are separated within an existing enterprise, are aimed to carry out specific business activities and which could form an independent enterprise carrying out these activities.

POLAND



b. Purchase Price Allocation

The purchase price should be allocated to the assets being the subject of the transaction (in particular to fixed and intangible assets) for the proper allocation of the values of the assets to the fixed and intangible asset register for CIT purposes and for RET purposes.

c. Tax Attributes

In going concern transactions, there is a possibility to separate the responsibility of the purchaser (with respect to potential tax arrears of the seller), provided that special certificates are issued by the tax authorities shortly prior to the acquisition. The certificate could be issued on the request of seller or on the request of purchaser (with a consent of the seller). In general, tax authorities have a 7 day deadline to issue such certificate, however in practice the above period could be extended. If the purchaser holds such certificates, it would be responsible for the tax arrears only up to the amounts revealed in the certificates.

In asset deal transactions, the purchaser is not responsible for historical tax risks of the seller.

d. Tax Free Reorganisations

See point 2.d. above

e. Purchase Agreement

Purchase agreement should specify the form of the acquisition, i.e whether it is the asset deal or the going concern deal.

Price for particular assets (category of assets) should be presented in the purchase agreement for proper application of CLAT rates (in case of going concern deal).

f. Depreciation and Amortisation

Goodwill is amortised only if it has arisen as a result of an acquisition of the going concern through purchase, leasing enterprise under financial lease agreement (under additional conditions) or contribution in kind of an enterprise under the specific provisions on commercialisation and privatisation. Goodwill revealed upon acquisition of shares in the company or contribution in kind of company's enterprise is not depreciable.

If goodwill were to be crystalised, the total value of fixed and intangible assets is the market price. If goodwill does not crystalise, as a result of the purchase of the going concern, the total value of fixed and intangible assets to be depreciated will be a difference between the going concern's purchase price and value of assets other than fixed and intangible assets.

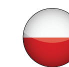
In case of the asset deal, assets should be introduced into the book of the purchaser at the acquisition value. The taxpayer should recognise initial tax value of the assets for depreciation purposes and RET purposes equal to the acquisition price of the given asset.

g. Transfer Taxes, VAT

Transactions involving a going concern are not subject to VAT, but they are subject to CLAT (1% or 2% depending on the asset).

Transactions involving assets are generally subject to VAT (standard rate – 23%). As long as the buyer runs VAT-able activity, VAT charged upon acquisition should be effectively neutral, however it could cause some cash flow concerns. Input VAT incurred upon acquisition may be utilised via deduction from output VAT or direct refund (the standard refund period is 60 days). Under certain circumstances VAT exemption may be applied, where also VAT taxation option is possible.

POLAND



In general, if the transaction is VAT exempt it could be subject to 1% or 2% CLAT, which could cause a material tax leakage (CLAT paid cannot be recovered, however it could constitute tax deductible costs for CIT purposes).

h. Asset Purchase Advantages

In case of going concern there is a possibility to cut off the responsibility of the purchaser with respect to potential tax arrears of the seller, provided that special certificates are issued by the tax authorities shortly (within 30 days) prior to the acquisition. If the purchaser holds such certificates, it would be responsible for the tax arrears only up to the amounts revealed in the certificates.

In case of purchase of the assets, the purchaser is not responsible for historical tax liabilities.

i. Asset Purchase Disadvantages

No tax losses are transferable under asset transactions. Additionally, it is recommended that tax treatment (VAT and CLAT) of asset transaction is secured via tax ruling and purchase documentation from the context of the potential reclassification asset deal vs. going concern deal.

5. ACQUISITION VEHICLES

a. General Comments

The common structure for acquisitions in Poland was purchase of the companies by SPVs where subsequently the debt push down was conducted. Due to the changes in the Polish CIT Law in 2018 denying interest on the debt push down to be a tax cost, such structures are not currently recommended from tax perspective.

b. Domestic Acquisition Vehicle

See above.

c. Foreign Acquisition Vehicle

The most common jurisdictions in Poland for foreign holding are currently the Netherlands and Luxembourg.

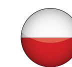
If a foreign acquisition vehicle is utilised, it is very important from a tax perspective that the foreign company has an appropriate business substance and the structure is not artificial. Otherwise the adverse tax consequences may arise (e.g. with respect to WHT treatment).

d. Partnerships and joint ventures

Partnerships (except for limited joint-stock partnerships and since 2021 also limited partnerships) are tax transparent in Poland, where income tax is taxed at the level of the partners of the partnership. The purchase or creation of the partnership in Poland results in a Polish permanent establishment for its foreign partners.

In Poland, JV's may be corporate (establishing the company) and contractual (concluding the civil law agreement). For corporate JV both corporate entities and partnerships may be used.

Contractual JV's can be affected through conclusion of civil law agreements (e.g. co-operation agreements). Contractual JV's are often used where a single project (and not an ongoing business activity) is concerned (e.g. single investments in the construction sector). Please note that Polish law does not recognise the concept of a deemed partnership.



e. Strategic vs Private Equity Buyers

Strategic buyers (usually companies in particular in similar industry as the target company) invest mainly for strategic purposes e.g. in order to gain future access to a key new technology or product (not for financial return only). They usually seek long term investments.

A private equity investment is an injection of funds by specialised investors into private companies with the aim of achieving high rates of return. The investments are usually limited in time.

6. ACQUISITION FINANCING

a. General Comments

For intra group loans generally there should be no administrative burdens. For tax treatment refer to point c below.

b. Equity

The most common jurisdictions for holding equity are Netherlands (especially in case of purchase of real estate companies due to the lack of real estate clause in the double tax treaty between Poland and the Netherlands) and Luxembourg (in particular due to flexibility of Luxembourg regulations).

c. Debt

i Limitations on use of debt

Generally, the amount of the financing should be at the market level – in another words the value of the loan should not be higher than the credit facility that the company would be able to receive from the bank. The other issue is the ratio of the group loan vs equity – there should not be high discrepancies between their values, however the Polish Tax Law does not indicate any allowed threshold of debt to equity ratio (which was used in the past for thin capitalisation restrictions).

ii Limitations on interest deductions

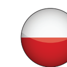
Based on the CIT being in force from 1 January 2018, interest is tax deductible up to PLN 3,000,000 or 30% tax EBITDA whichever is higher (according to the tax authorities interpretation) or interest is tax deductible up to PLN 3,000,000 and 30% tax EBITDA for values exceeding PLN 3,000,000 (according to administrative courts). Restrictions also apply to the third-party loans and bank financing.

Interest on debt push down is tax non-deductible.

CIT law provides that interest on own capital invested by the taxpayer in a source of his revenue does not constitute a tax-deductible cost. This limitation covers loans granted to partnerships by their direct partners, proportionally to their participation (interest could constitute tax deductible costs for other direct partners of the subsidiary proportionally to their participation). However, it should be highlighted that such limitation only applies to borrowers being a partnership, thus the limitation does not apply to corporations.

iii Related Party Debt

From the perspective of thin capitalisation rules, currently there is no distinctions between tax treatment of related party debt and unrelated party debt.



iv Debt Pushdown

A typical strategy to push-down a debt is a post-acquisition merger: The Polish SPV draws the debt for the acquisition of the target, buys the target and subsequently merges with it. Another strategy could be an acquisition of assets of the target company financed by debt (e.g. a loan granted by an affiliated company or a third-party bank) or transformation of the target into tax transparent partnership.

From 2018, interest on debt push down is non-tax deductible.

Tax deductibility of interest on acquisition financing in the case of a post-acquisition merger is denied.

A debt-pushdown mechanism could be illustrated with the following example:

- Incorporation of a SPV;
- Provision of debt financing to SPV;
- Acquisition of operating corporation generating income by SPV;
- Merger of SPV and the operating corporation, which before the restriction introduced in 2018 could result in deduction of the loan interest with income of the operating corporation.

Somewhat less frequently used strategies are the establishment of a Tax Capital Group (“TCG”) or consolidation with tax transparent partnerships.

d. Hybrid Instruments

In Poland there are no typical hybrid instruments which may be used for tax purposes.

Poland has transposed the amendments provided by the EU Parent-Subsidiary Directive into its domestic legislation. This refers in particular to the anti-hybrid rule with respect to dividends obtained by Polish company if it was deducted for tax purposes by its EU subsidiary as well as the anti-abuse rule with respect to dividend distributions.

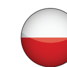
e. Other Instruments

The Polish tax authorities currently tend to verify the substance requirements in case of foreign entities and target the artificial tax avoidance schemes. Based on the GAAR, the Polish tax authorities are entitled to re-characterise the transaction based on the substance over form principle.

f. Earn-outs

These are contractual provisions stating that the seller of a business is to obtain additional compensation in the future if the business achieves certain financial goals, usually a percentage of sales or earnings is often used in transactions.

Earn-outs should be verified from tax perspective (moment of tax recognition, CLAT treatment). In particular, it should be considered whether the earn-outs are subject to CLAT. There are some arguments to claim, that if the initial price has been determined with respect to arm’s length rules, the payment of earn-out should not be subject to CLAT (such approach seems to be also confirmed by tax authorities in the latest tax rulings).



7. DIVESTITURES

a. Tax Free

Please refer to point 2.d.

b. Taxable

If the conditions for tax neutrality of the transactions (point III d.) are not met (including lack of business justification), the transactions will be subject to tax.

c. Cross Border

Please refer to point 2.d.

8. FOREIGN OPERATIONS OF A DOMESTIC TARGET

a. Worldwide or territorial tax system

Polish tax residents are subject to income tax in Poland on their worldwide income. Income derived by the Polish tax residents abroad is generally subject to tax in Poland generally based on a foreign tax credit method unless relevant double tax treaty provides otherwise.

Polish non-residents are subject to income tax in Poland on the Polish sourced income which is in particular income from activities conducted in Poland (e.g. through branch, partnership), income from real estate located in Poland and its disposal, securities / derivatives publicly listed in Poland and their disposal, sale (direct or indirect) of shares in a company with at least 50% of assets being real estates located in Poland.

b. CFC Regime

Effective from 1 January 2015, certain income or gains derived by foreign subsidiaries of Polish taxpayers that fit the definition of a CFC are subject to tax in Poland. A CFC's income is subject to tax in Poland at 19% at the level of the Polish shareholder.

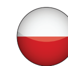
From 2019, the definition of foreign entities which could be affected by the CFC provisions has been extended and also include. trusts, foundations, capital groups or particular companies forming capital groups which conduct CFC qualified business activity. Additionally, the new regulations have extended the CFC list of qualified links between a taxpayer and foreign entity to include expected and future rights to profits and exercising actual control.

c. Foreign branches and partnerships

A foreign company may set-up a branch in Poland. A branch is a part of foreign company, but it does not have its own legal personality. A branch may only conduct activities that are within the scope of the business activities of the foreign company (head office).

A foreign entity may also set-up a partnership in Poland.

Both a branch and a partnership will constitute Polish permanent establishments for foreign entities – they will be subject to Polish income tax and – if it applies – the Polish fixed establishment for VAT purposes. The foreign taxpayer having a branch or a partnership in Poland is subject to standard CIT rate on the income obtained in the territory of Poland.



d. Cash Repatriation

Cash repatriation may be conducted through payment of a dividend, payment of remuneration for redemption proceeds or granting of loans.

Dividends may be subject to WHT in Poland unless WHT exemption applies. There is no WHT exemption applicable to the payment of redemption proceeds.

In the case of loans, tax deductibility of interest should be verified as well as WHT treatment.

9. OTHER GENERAL INTERNATIONAL TAX CONSIDERATIONS

a. Special Rules for Real Property, including Shares of "Real Property-Rich" Corporations

A number of Polish Double Tax Treaties ("DTT") provide for a rule leading to taxation of income realised on alienation of shares in real estate companies in Poland (so called 'real-estate clause' – e.g. DTT with Luxembourg). Also, the Polish CIT Law provides for a domestic real estate clause.

Under these provisions, real estate companies should be generally referred to as entities the value of which (or the value of their shares being alienated) is directly or indirectly derived mainly (some treaties provide for 50% ratio) from immovable property.

In general on the basis of Polish tax law there are no look back rules once the real estate is disposed (the tax cost value of disposed assets should be determined as at the last day of the month preceding the month in which the revenue was obtained), however the GAAR and MDR provisions should be taken into account. On the other hand, it should be highlighted, that rules may differ based on particular DTTs. What is more the according to MLI Convention the real estate clause should apply if the 50% value threshold is met at any time during the 365 days preceding the alienation.

b. CbC and Other Reporting Regimes

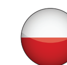
The obligation to file CbC generally applies to entities operating in groups which:

- prepare consolidated financial statements,
- conduct cross-border operations,
- earned consolidated net turnover for the previous financial year exceeding PLN 3 250,000,000 or 750,000,000.

As a rule, CbC is provided by the ultimate parent company in the group (in Poland – if it has its registered office or seat of management here).

The CbC report must be filed within 12 months after group's accounting year end (for which annual consolidated financial statement has been prepared). A notification for CbC must be done to the tax authorities within 3 months after the group's accounting year end (for which annual consolidated financial statement has been prepared).

POLAND



10. TRANSFER PRICING

a. Documentation requirements

The current transfer pricing regulations oblige entities to prepare a local file including benchmarking analysis if the value of a controlled transaction exceed the thresholds amounting to PLN 10,000,000 (in respect of tangible assets, financial transactions) or PLN 2,000,000 (in respect of intangible assets, services, use/provision of tangible and intangible assets, attribution of income to a foreign PE and other transactions).

Domestic controlled transactions made between entities that do not incur tax losses are generally exempted from documentation requirements. Moreover, safe harbour regime may be applied with regard to low value-added services and certain loans.

Entities required to prepare local file and belonging to the groups (i) which consolidated revenues exceeded PLN 200,000,000 in the previous year and (ii) for which consolidated financial statement is prepared, should also prepare a master file documentation. There is a possibility to use master file prepared by another group entity and English version is allowed.

b. Reporting requirements

Entities obliged to prepare a local transfer pricing documentation or engaged in domestic controlled transactions exempted from documentation requirements, are required to file in an electronic form to the tax authorities a detailed information on transactions with related entities. The scope of required information is quite extensive and includes i.e the results of benchmarking analyses and of controlled transactions. Transfer pricing reporting is aimed to ensure better efficiency of selecting taxpayers for tax controls.

Moreover, entities obliged to prepare local file have to submit a statement that local file was prepared and the transfer prices in the controlled transactions included in the local file have been set in line with the arm's length principle.

11. POST-ACQUISITION INTEGRATION CONSIDERATIONS

a. Use of Hybrid Entities

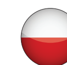
In Poland generally there are no hybrid entities.

b. Use of Hybrid Instruments

In Poland generally there are no hybrid instruments.

c. Principal/Limited Risk Distribution or Similar Structures

In general, Polish tax authorities acknowledge typical functional profiles presented in OECD Guidelines such as principal, limited risk distributors or similar structures (e.g. tollers).



d. Intellectual property

Since 2019 the IP Box concept was introduced.

License of intellectual property should be verified from WHT perspective. Additionally, from 2018, there is limitation of tax costs on licenses purchased from related parties (tax deductibility of such expenses exceeding PLN 3,000,000 is limited to 5% tax EBITDA).

Currently there is no any special adverse tax regime in case of a transfer of intangibles outside of Poland although generally subsequent cost of use of intangibles will be limited – based on the new CIT regulations, tax deductibility of payments / amortisation write-offs for intangibles previously owned is limited to the value of income generated from its sale. Additionally, transfer pricing / GAAR rules should be verified.

e. Special tax regimes

Generally, there is no special tax regime in Poland.

12. OECD BEPS CONSIDERATIONS

Generally, Poland supports OECD BEPS actions. In respect of OECD BEPS Action 6 the Polish Ministry of Finance is renegotiating some double taxation treaties ("DTTs"). In particular, Poland's efforts are targeted at eliminating from DTTs tax sparing credit clauses and introducing artificial arrangement clauses, real estate clauses as well as beneficial ownership clauses. Among the DTTs which are subject to negotiation / renegotiation or are planned to be renegotiated are the DTT with Brazil, Philippines, France, Kuwait, Morocco, Russia, Spain, the Netherlands and Thailand. It is assumed that further adjustments of Polish DTTs with other countries could be made as part of the implementation of a multilateral instrument (Action 15) described below.

As regards OECD BEPS Action 15, Poland is an active member of the OECD Group Developing a Multilateral Instrument to Modify Bilateral Tax Treaties. Poland signed the convention on the ceremony which took place in June 2017.

Poland implemented a number of changes to the Polish tax scheme based on the Anti Tax Avoidance Directive (regarding e.g. introduction of tax baskets, thin capitalisation, CFC regulations, exit tax).

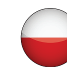
13. ACCOUNTING CONSIDERATIONS

a. Combinations

There are few differences between Polish Accounting Regulations and IFRS. Most common ones relate to:

- amortisation of goodwill, which is obligatory under Polish Accounting Regulations, in contrary to the obligatory goodwill impairment test under IFRS;
- combinations under common control defined in Polish Accounting Standards and excluded from the IFRS3 scope.

Time consuming reporting obligations apply for business combinations like audit of the merger plan and obligatory audit of the merged entity annual financial statements.



b. Divestitures

Not regulated in detail in Polish Accounting Regulations – merger accounting rules have to be applied as appropriate.

14. OTHER TAX CONSIDERATIONS

a. Distributable Reserves

Cash can be distributed as remuneration for redemption proceeds (as a repayment of capital previously invested) or as a loan. Additionally, the cash can be distributed also as remuneration for services.

b. Substance Requirements for Recipients

Under the general rule, the company will be regarded as a tax resident in Poland if it has its seat or place of management in Poland. There are no specific rules or interpretation on how the place of management should be understood, however there is a growing tendency among the tax authorities to examine the substance of international structures of which Polish entities are a part of. To some extent, CFC provisions regarding genuine business activity requirements can serve as a point of reference. Additionally, in June 2017 the Ministry of Finance published a document describing when a foreign holding structure may be treated as an aggressive optimisation and where it listed a circumstances proving that the foreign holding ("SPV") does not have a place of management in its jurisdiction which are among others: (i) directors of SPV are at the same time management board members of the Polish company, (ii) directors of SPV reside and perform their duties in Poland and their visits in the country of SPV is limited only to sign documents or take resolutions, (iii) there are no specific tasks assigned to these directors, (iv) directors of SPV do not have a special competence and knowledge to perform their duties, (v) there is no documentation proving performance of their duties, (vi) there is no office of the SPV, e-mails, telephone numbers, (vii) the SPV does not have an employees (besides administration). It may be expected that the tax authorities when analysing the residency of the holding companies will take into account also the above conditions.

c. Application of Regional Rules

Poland has implemented EU directives – the Parent-Subsidiary Directive, Interest-Royalties Directive and Merger Directive. Poland has also implemented the savings directive relating to exchange of information between tax administrations. Recently Poland has implemented a number of tax changes based on the ATAD Directive (thin capitalisation restrictions, exit tax, etc.).

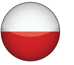
d. Tax Rulings and Clearances

The taxpayers may apply to the tax authority for a binding tax ruling. Tax ruling should be issued by the tax authorities within 3 months.

If the tax ruling is properly applied (in particular it properly reflects reality), the taxpayer should be protected from the obligation to pay tax liability if the tax treatment being the subject of the tax ruling is challenged (if the tax effects of the given event / transaction covered by the tax ruling took place after the ruling was obtained). The taxpayer should be also protected from obligation to pay penalty interest and from initiation of penal fiscal proceedings. There is no other more informal procedure to secure the tax position of taxpayer.

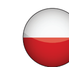
As of 1 January 2019, there is automatic cancellation of certain individual tax rulings if these concerned determination of the tax consequences of the interpreted event under GAAR rules or assessment of the economic reasons of the event. Moreover, as at the same date taxpayers will not be allowed to apply for the ruling with regard to the above provisions.

POLAND



15. MAJOR NON-TAX CONSIDERATIONS

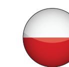
This section is left intentionally blank.



16. APPENDIX I - TAX TREATY RATES

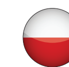
Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Albania	5 / 10	10	5	[1]
Armenia	10	5	10	
Australia	15	10	10	
Austria	5 / 15	5	5	[2]
Azerbaijan	10	10	10	
Bangladesh	10 / 15	10	10	[2]
Belarus	10 / 15	10	0	[4]
Belgium	0 / 10	5	5	[5]
Bosnia and Herzegovina	5 / 15	10	10	[3]
Bulgaria	10	10	5	
Canada	5 / 15	0 / 10	5 / 10	[2] [6] [7]
Chile	5 / 15	5 / 15	5 / 10	[8] [9] [10]
China	10	10	7 / 10	[11]
Croatia	5 / 15	10	10	[3]
Cyprus	0 / 5	5	5	[12]
Czech Republic	5	5	10	
Denmark	0 / 5 / 15	5	5	[13]
Egypt	12	12	12	
Estonia	5 / 15	10	10	[3]
Ethiopia	10	10	10	
Finland	5 / 15	5	5	[3]
France	5 / 15	0	0 / 10	[14] [15]
Georgia	10	8	8	
Germany	5 / 15	5	5	[2]
Greece	-	10	10	[16]
Hungary	10	10	10	
Iceland	5 / 15	10	10	[3]
India	10	10	15	

POLAND



Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Indonesia	10 / 15	10	15	[17]
Iran	7	10	10	
Ireland	0 / 15	10	0 / 10	[18] [19]
Israel	5 / 10	5	5 / 10	[20] [11]
Italy	10	10	10	
Japan	10	10	0 / 10	[21]
Jordan	10	10	10	
Kazakhstan	10 / 15	10	10	[22]
Korea (ROK)	5 / 10	10	5	[2]
Kuwait	0 / 5	0 / 5	15	[23] [24]
Kyrgyzstan	10	10	10	
Latvia	5 / 15	10	10	[3]
Lebanon	5	5	5	
Lithuania	5 / 15	10	10	[3]
Luxembourg	0 / 15	5	5	[12]
Malaysia	0	15	15	[25]
Malta	0 / 10	5	5	[12]
Mexico	5 / 15	0 / 5 / 15	10	[18] [26]
Moldova	5 / 15	10	10	[3]
Mongolia	10	10	5	
Montenegro	5 / 15	10	10	[3]
Morocco	7 / 15	10	10	[3]
Netherlands	5 / 15	5	5	[2]
New Zealand	15	10	10	
North Macedonia	5 / 15	10	10	[3]
Norway	0 / 15	5	5	[12]
Pakistan	15	-	15 / 20	[27] [28]
Philippines	10 / 15	10	15	[3]
Portugal	10 / 15	10	10	[29]

POLAND

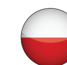


Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Qatar	5	5	5	
Romania	5 / 15	10	10	[18]
Russia	10	10	10	
Saudi Arabia	5	0 / 5	10	[30]
Serbia	5 / 15	10	10	[18]
Singapore	5 / 10	5	2 / 5	[12] [11]
Slovakia	0 / 5	5	5	[12]
Slovenia	5 / 15	10	10	[18]
South Africa	5 / 15	10	10	[18]
Spain	5 / 15	0	0 / 10	[18] [31]
Sri Lanka	10	10	10	
Sweden	5 / 15	0	5	[3]
Switzerland	0 / 15	0 / 5	0 / 5	[32] [33] [34]
Syria	10	10	18	
Taiwan	10	10	3 / 10	[11]
Tajikistan	5 / 15	10	10	[3]
Thailand	20	10	0 / 5 / 15	[35] [36]
Tunisia	5 / 10	12	12	[3]
Turkey	10 / 15	10	10	[3]
Ukraine	5 / 15	10	10	[3]
United Arab Emirates	5	5	5	
United Kingdom	0 / 10	5	5	[12]
United States	5 / 15	0	10	[2]
Uzbekistan	5 / 15	10	10	[8]
Vietnam	10 / 15	10	10 / 15	[3] [37]
Zimbabwe	10 / 15	10	10	[3]

POLAND

Footnotes:	
1	Dividends - In order to benefit from the lower tax rate a minimum share of 25% is required. After the ratification of the MLI by the parties to the DTT, the condition of holding shares in a subsidiary for a period of at least 365 days has been added (effective from 1.01.2021).
2	Dividends - In order to benefit from the lower tax rate a minimum share of 10% is required.
3	Dividends - In order to benefit from the lower tax rate a minimum share of 25% is required.
4	Dividends - In order to benefit from the lower tax rate a minimum share of more than 30% is required.
5	Dividends - Dividend payments are tax exempt if the person entitled to dividend is - (I) a company established in the other contracting country, which holds directly, for an uninterrupted 24-month period, at least 10% of the shares (stock) in the capital of the company paying the dividends, (II) a pension fund established in the other contracting country, provided that such shares or other rights on which dividends are paid, held for the purpose of - (A) administering pension systems or providing pension benefits; or (B) generating income on behalf of one or more persons whose activity consists in administering or providing pension benefits; and provided that it is also - (A) in case of Belgium, an entity regulated by the Office of Financial Services and Markets or the National Bank of Belgium or has been registered with the Belgian Tax Administration; or (B) in case of Poland, an entity established under Polish law that is supervised or registered by the Polish Financial Supervision Authority.
6	Interest - The lower rate applies to interest paid with respect to debt arising from the sale of any equipment, goods or services, except i.a. situations in which sales or debt occurred between related parties.
7	Royalties - The lower rate applies to royalties arising from copyright (excluding films) as well as the right to use a patent or from work experience in an industrial, commercial or scientific field (excluding rental or franchise fees).
8	Dividends - In order to benefit from the lower tax rate a minimum share of 20% is required.
9	Interest - Tax Treaty indicates 15% rate for all types of interest. However, under the most favored nation clause, the rate is reduced to 5% for interest (a) paid to a banking or insurance company or (b) derived from bonds or securities that are traded on the securities market (the rate of such interest is currently 5% under the Chile-Spain Treaty).
10	Royalties - The lower rate applies to royalties for the use or right to use an industrial, commercial or scientific device. The general rate resulting from the Treaty is 15%. However, under the most favored nation clause, the rate may be reduced to 10% (currently 10% under the Chile-Spain Treaty).
11	Royalties - The lower rate applies to royalties for the use or right to use an industrial, commercial and scientific device.
12	Dividends - In order to benefit from the lower tax rate a minimum share of 10% is required and held uninterruptedly for a period of 24 months.
13	Dividends - In order to benefit from the 0% tax rate a minimum share of 25% is required and held for 1 year. The 5% rate applies to payments to pension funds.
14	Dividends - In order to benefit from the lower tax rate a minimum share of 10% for a period of at least 365 days is required.
15	Royalties - The 0% rate applies to receivables from copyrights arising from literary, scientific or artistic works.
16	Dividends - The national rate applies; there is no preferential rate under the Treaty.
17	Dividends - In order to benefit from the lower tax rate a minimum share of 20% is required. After the ratification of the MLI by the parties to the DTT, the condition of holding shares in a subsidiary for a period of at least 365 days has been added (entry into effect depending on completion of internal procedures in Indonesia).

POLAND

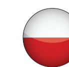


Footnotes:	
18	Dividends - In order to benefit from the lower tax rate a minimum share of 25% for a period of at least 365 days is required.
19	Royalties - The lower rate applies to fees for technical services.
20	Dividends - In order to benefit from the lower tax rate a minimum share of 15% for a period of at least 365 days is required.
21	Royalties - The 10% rate applies to royalties for industrial technologies. A rate of 0% applies to copyright royalties.
22	Dividends - In order to benefit from the lower tax rate a minimum share of 20% is required. After the ratification of the MLI by the parties to the DTT, the condition of holding shares in a subsidiary for a period of at least 365 days has been added (effective from 1.01.2021).
23	Dividends - The lower rate applies if the beneficiary is a government of another country or a company in which at least 25% of the capital is owned by the government.
24	Interest - The 0% rate applies to interest paid to companies that are at least 25% state-owned.
25	Royalties - Royalties related to the use or right to use films for cinemas, works for television, radio are taxed in accordance with the legislation of the country in which they are produced.
26	Interest - The 10% rate applies to interest that is owned by a bank or insurance company or that is derived from bonds or debentures. The 0% rate applies, among others if the beneficiary of the interest is the pension fund.
27	Dividends - Ownership of at least 1/3 of the capital is required to benefit from the 15% tax rate.
28	Royalties - The lower rate applies to receivables for know-how agreements and information on industrial, commercial and scientific experience.
29	Dividends - In order to benefit from the lower tax rate a minimum share of 25% for a period of at least 2 years is required.
30	Interest - The 0% rate applies to interest paid to a legal person that is controlled or owned by the State.
31	Royalties - A rate of 0% applies to the copyright royalties in the field of films for cinemas and television (condition - transfer of this film under cultural arrangements between countries). It applies to copyright and similar rights related to the creation or reproduction of a literary, musical or artistic work (excluding films).
32	Dividends - 0% rate for (I) a company (not being a partnership) with at least 10% of shares for an uninterrupted period of 24 months, (II) a pension fund.
33	Interest - The lower rate applies if the recipient is a related company (not being a partnership).
34	Royalties - The lower rate applies if the recipient is a related company (not being a partnership).
35	Dividends - In order to benefit from the 20% tax rate a minimum share of 25% is required.
36	Royalties - The 0% rate applies to film and tape royalties paid to the state or a state-owned company, the 5% rate applies to royalties for the transfer of ownership, use or the right to use a literary, artistic or scientific work excluding films for cinemas and tapes for television or radio.
37	Royalties - The lower rate applies to royalties for the use or right to use a patent, design or model, plan, secret, or information on acquired industrial or scientific experience.

17. APPENDIX II - GENERAL CORPORATE ENTITY TAX DUE DILIGENCE REQUESTS

No.	Category	Sub-Category	Description of Request
1	Tax Due Diligence	General	Financial statements of Target.
2	Tax Due Diligence	General	Trial Balances of Target.
3	Tax Due Diligence	General	Tax registration documentation.
4	Tax Due Diligence	General	Tax audit book and full documentation (protocols, decisions) regarding tax audits, as well as any other correspondence with the tax authorities. Information on on-going proceedings with tax authorities.
5	Tax Due Diligence	General	Current certificates from the appropriate tax authorities confirming that Target has no outstanding tax and social security liabilities.
6	Tax Due Diligence	General	Correspondence with the tax authorities including individual tax rulings received with respective applications.
7	Tax Due Diligence	General	Tax reports, opinions, etc. received by Target from tax advisors, if any.
8	Tax Due Diligence	General	Information if Target conducts any operations outside Poland (e.g. through branch, representation office, delegated employees).
9	Tax Due Diligence	General	Information on tax exemptions, donations, subsidies granted for Target - their purpose and tax treatment.
10	Tax Due Diligence	General	Information about non-standard / restructuring transactions performed (i.a. merger, transformations, transfer of assets / functions, in-kind contribution, etc.), their tax treatment and the legal documentation.
11	Tax Due Diligence	General	Information on optimization schemes applied by Target and the amount of savings, if any.
12	Tax Due Diligence	Corporate Income Tax ("CIT")	Annual CIT returns with relevant attachments.
13	Tax Due Diligence	Corporate Income Tax ("CIT")	Detailed CIT calculation (presenting in particular additional tax deductible costs and non taxable revenues and division of revenues on capital gains and other sources).
14	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on tax losses to carry forward.
15	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on the moment of recognition of taxable revenues and tax deductible costs (in particular with respect to long-term projects) and any changes in approach in this regard. Differences between tax and accounting treatment - main positions.

POLAND

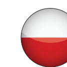


No.	Category	Sub-Category	Description of Request
16	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on the moment of recognition of corrections.
17	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on the transactions with related parties (together with respective agreements and values of transactions).
18	Tax Due Diligence	Corporate Income Tax ("CIT")	Transfer pricing documentation (if any).
19	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on any cross-border payments made by Target (royalties, interest, intangible services etc).
20	Tax Due Diligence	Corporate Income Tax ("CIT")	IFT-2R and CIT-10Z declarations submitted.
21	Tax Due Diligence	Corporate Income Tax ("CIT")	Certificates of tax residency of the cross-border payments recipients.
22	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on the procedure of documenting the performance of due diligence in case of payments subject to WHT made by the Target, especially in case of application of WHT exemption for dividends.
23	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on material penalties paid by Target and their tax treatment.
24	Tax Due Diligence	Corporate Income Tax ("CIT")	Calculation for the purposes of limitation of intangible services costs (art. 15e of the CIT Act).
25	Tax Due Diligence	Corporate Income Tax ("CIT")	Application of thin capitalization / EBITDA-based interest deduction restrictions. Calculation for the purposes of limitation of costs of debt financing (art. 15c of the CIT Act).
26	Tax Due Diligence	Corporate Income Tax ("CIT")	Information on interest paid / capitalized and its tax treatment.
27	Tax Due Diligence	Corporate Income Tax ("CIT")	Tax treatment of intangible services (management, advisory, marketing, legal, market research, etc.) and their source documentation.

POLAND

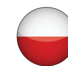
No.	Category	Sub-Category	Description of Request
28	Tax Due Diligence	Corporate Income Tax (“CIT”)	Proof documentation of rendering intangible services, especially reports and indication of particular people who performed the services.
29	Tax Due Diligence	Corporate Income Tax (“CIT”)	Information on the benefits received or granted free of charge (e.g. guarantees, free of charge services, free of charge use of trademark or received from the group companies with relation to a bank loan collateral, management services).
30	Tax Due Diligence	Corporate Income Tax (“CIT”)	Fixed and intangible asset register for tax purposes.
31	Tax Due Diligence	Corporate Income Tax (“CIT”)	Tax treatment methodology regarding fit-outs, renovations, modernisations, investments (including capitalisation of expenses to the initial value), liquidation.
32	Tax Due Diligence	Corporate Income Tax (“CIT”)	Information whether the Target's management board members receive remuneration (along with relevant documentation).
33	Tax Due Diligence	Corporate Income Tax (“CIT”)	Tax treatment methodology regarding company cars, especially regarding the recognition of tax costs.
34	Tax Due Diligence	Value Added Tax (“VAT”)	VAT declarations.
35	Tax Due Diligence	Value Added Tax (“VAT”)	VAT registers for chosen 3 months of each year.
36	Tax Due Diligence	Value Added Tax (“VAT”)	Information on: 1) standard and non-standard VAT transactions along with moment of tax point recognition, 2) VAT rates applied 3) documentation for the application of 0% 4) transaction outside of VAT 5) VAT exempt transactions.
37	Tax Due Diligence	Value Added Tax (“VAT”)	Information on granted/denied VAT refunds.
38	Tax Due Diligence	Value Added Tax (“VAT”)	Policy protecting Target from VAT frauds.

POLAND



No.	Category	Sub-Category	Description of Request
39	Tax Due Diligence	Personal Income Tax (“PIT”)	PIT declarations.
40	Tax Due Diligence	Personal Income Tax (“PIT”)	Information on the remuneration model applied (i.e employment, civil law contracts, self-employment) and tax treatment (including PIT, CIT and VAT).
41	Tax Due Diligence	Personal Income Tax (“PIT”)	Additional benefits for the employees (including motivation plans) and their tax treatment (including PIT, CIT and VAT).
42	Tax Due Diligence	Tax on Civil Law Transactions (“TCLT”)	List of transaction subject to TCLT with respective declarations and transactions exempt from TCLT.
43	Tax Due Diligence	Real Estate Tax (“RET”)	RET declarations
44	Tax Due Diligence	Real Estate Tax (“RET”)	RET calculations.

POLAND



FOR MORE INFORMATION CONTACT:

Andrzej Puncewicz
+48 602 185 585
Andrzej.Puncewicz@crido.pl