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DOING BUSINESS IN POLAND





COMPANY FORMATION IN POLAND

MAIN FORMS OF COMPANY/BUSINESS IN POLAND

Entrepreneurs can conduct their business in the form of Capital Companies or Partnerships.

1. Capital Companies

- Limited liability company
- Joint stock company

1.1. Limited liability company

The entity most often established by entrepreneurs is a limited liability company (Polish abbreviation "sp. z o.o."). The minimum capital of a limited liability company amounts to PLN 5,000. The articles of association must be made in the form of a notarial deed. The shareholders in a limited liability company may be natural persons or companies/partnerships. Number of shareholders is unlimited. In order to establish a limited liability company, its founders must pay in the entire share capital. The shares may be taken up in exchange for cash or non-cash contributions. The shares can be presented not only in material form.

1.2. Joint stock company

The principles of operation for a joint stock company (Polish abbreviation "S.A." or "SA") are more complex than in the case of a limited liability company. The form of a joint stock company is required for special types of operations, e.g. for banks or insurance companies. The minimum capital of a joint stock company amounts to PLN 100,000. At least one-fourth of the nominal value of shares taken up in exchange for cash contributions should be paid up before the company is registered.

2. Partnerships in Poland

- a) Commercial partnerships which operations are regulated in the Code of Commercial Partnerships and Companies
- b) Civil partnerships governed by the provisions of the Civil Code. A civil partnership is intended for conducting operations on small scale. It does not have a status of entrepreneur.

Commercial partnerships are as follows:

Registered partnership (Polish abbreviation "sp. j."): all partners are liable for the obligations of the partnership jointly and severally. The articles of association must be made in writing, otherwise they are null and void.

Limited partnership (Polish abbreviation "sp. k."): at least one partner is liable for the obligations of the partnership jointly and severally and without limitation, whereas limited partners are liable only up to the amount of the commendam sum.

Limited joint stock partnership (Polish abbreviation "S.K.A."): a general partner is liable for the obligations of the partnership jointly and severally and without limitation. Shareholders do not bear such liability. The minimum amount of the share capital in the limited joint stock partnership amounts to PLN 50,000.

Professional partnership (Polish abbreviation "sp.p."): created by partners in order to pursue professions defined in Article 88 of the Code of Commercial Partnerships and Companies, e.g. attorney at law, certified auditor, tax advisor. Individual partners are not liable for obligations of the partnership arising from the activities of other partners.

SPECIFIC TAX CONCERNS RELATED TO ESTABLISHING A COMPANY

As the Polish limited liability company and joint stock company as separate legal entities they are taxed by Corporate Income Tax (CIT). CIT is imposed on the total income from all sources (reduced by deductions) at the rate of 19%. When dividends are paid out to shareholders, in principle tax on dividends of 19% is collected. However, pursuant to international



double tax treaties and European directives, often a lower tax rate or exemption is applied.

Income of registered partnership, limited partnership and professional partnership is taxed only once at partner level. Partnerships themselves are not taxpayers liable to income tax. Income from a share in a partnership is treated as income from business operations of individual partners. A shareholder who is a legal person pays 19% corporate income tax. A shareholder who is a natural person pays his tax in accordance with a tax scale (18% and 32%), but he may also chose 19% flat rate tax.

The exception is a limited joint stock partnership - it has been liable to pay corporate income tax. When dividends are paid out to shareholders, in principle tax on dividends of 19% is collected. However, pursuant to specified law regulations often a lower tax rate or exemption is applied.

Individual entrepreneurs tax their income from business operations in accordance with a tax scale. The lowest rate is 18%, and 32% is paid on income above ca. EUR 20,000. Entrepreneurs running small businesses (revenues up to EUR 150,000) may in addition choose lump sum and simplified forms of taxation.

LEGAL ISSUES RELATED TO ESTABLISHING A COMPANY

The process of setting up a partnership begins with a notary where signatures are provided. The partnership agreement does not require a notarial deed, while the shareholders of capital companies must conclude a contract in the form of a notarial deed.

Capital companies and partnerships register their business operations in National Court Register (Polish abbreviation "KRS").

Capital companies acquire legal personality as of the date of their entry into KRS court. They may be established by natural or legal persons.

Natural persons (individuals) register their business operations in the Central Records and Information of Business Operations (Polish abbreviation "CEIDG"). The entry of a natural person in CEIDG covers also the registration for the purpose of taxes as well social and health insurance.

The foreigners can set up companies and they may buy or sale the shares of Polish companies. The EU Citizens carry out business as natural persons. Being a board member is not equivalent with employment. In some cases foreigners have an obligation to acquire work permit in Poland.

CULTURAL CONCERNS RELATED TO ESTABLISHING A COMPANY

Registration procedures of the company in KRS can last few weeks. In Poland, the procedures are complex as the bureaucracy. Law, often contradictory or interpreted in different ways, is constantly and frequently changing, so entrepreneurs often benefit from professional help of lawyers, tax consultants and accountants. Authorities operate without the relative delay. Unfortunately, usually you should expect a decision or the end of the procedure no sooner than on the last day of the designated statutory deadline.

OTHER COUNTRY-SPECIFIC ISSUES RELATED TO ESTABLISHING A COMPANY

Contrary to what is commonly heard, the Polish tax system is not very complicated, especially when we compare it with systems existing in certain Western European countries. The most common taxes, apart from income taxes, are goods and services tax (VAT), excise tax, tax on civil law transactions. In addition, local taxes and charges are paid, e.g. real estate tax, vehicle tax, stamp duty on certain activities in governmental offices, tonnage tax, tax on extraction of certain minerals, agricultural and forest tax.

There are 14 Special Economic Zones (Polish abbreviation "SSE") in Poland. Entrepreneurs operating in SSE enjoy exemptions from corporate and personal income taxes. Entrepreneurs may receive state aid in the form of EU or governmental subsidies, and exemption from real estate tax and a credit for new technologies.



PERMANENT ESTABLISHMENT IN POLAND: BRANCH OR SUBSIDIARY?

DEFINITION OF A PERMANENT ESTABLISHMENT

According to Act of corporate income tax in Poland (CIT), the foreign establishment (in Polish "Zakład") shall mean:

- a) a permanent place of business through which the subject whose seat or management office is on the territory of one state pursues its activities, in whole or in part, within the territory of another state, in particular a branch, agency, office, factory, workshop or place of extraction of natural resources;
- b) a construction site, construction, assembly or installation works carried on within the territory of one state by the subject whose seat or management office is on the territory of another state;
 - unless a double taxation treaty (DDT) to which Poland is party provides otherwise. For example, for the purposes of the DTT Poland/Italy, the term "permanent establishment" means a fixed place of business in which business of the enterprise is wholly or partly carried out.

Based on the Commentary to OECD Model Tax Convention from 2000, planning and supervising activity does not result in the permanent establishment, if carried out by another enterprise as building contractor.

DEFINITION AND MAIN DIFFERENCES BETWEEN A BRANCH AND A SUBSIDIARY

In Poland we operate with the definition of branch. According to the Act on Freedom of Economic Activities, a branch (Oddział) is a organizationally distinct and independent part of the business, pursued by the entrepreneur outside its registered office (or principal place of business).

Foreign entrepreneurs may operate in Poland through a branch. However, entrepreneurs from outside the European Economic Area may establish branches in Poland on a reciprocity basis. A foreign entrepreneur establishing a branch may perform business operations only within the scope of operations of such foreign entrepreneur.

Foreign entrepreneurs may establish representative offices having seats in the territory of Poland. The scope of operation of the representative office may cover only advertising and promotion of the foreign entrepreneur. Therefore, representative offices do not constitute the so called permanent establishment within the meaning of the international tax law and in principle do not pay income tax in Poland.

TAX AND ACCOUNTING OBLIGATIONS

Branches of foreign persons operating in Poland constitute a permanent establishment of a foreign entrepreneur within the meaning of tax regulations. Profits attributable to the operations of a permanent establishment are taxed in Poland.

A permanent establishment of a legal person will pay 19% corporate income tax on income taxable in Poland. A natural person establishing a branch in Poland will pay income tax in accordance with the tax scale (18% and 32%) or a flat rate tax in the amount of 19% of income if he/she notifies the intention to use this form of taxation to the tax office in a timely manner.

In most cases, branches are obligated to pay the Polish goods and services tax (VAT) and collect as withholding agents personal income tax and social security contributions if they employ personnel in Poland.



REGISTRATION FORMALITIES

Branches of foreign entities are entered into the register of entrepreneurs (KRS).

Except for certain financial institutions, representative offices of foreign entities are entered into the register of representative offices of foreign entrepreneurs, kept by the minister competent for economy.

STANDARD LEGAL OBLIGATIONS AND FORMALITIES FOR A BRANCH

The law requires the foreign entrepreneur to appoint his representative in Poland.



HOW TO HIRE MY FIRST EMPLOYEE IN POLAND

MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

- Signing a contract of employment
- Notification to the Social Insurance Institution ("ZUS")
- Setting personal records
- Initial medical examination and Health & Safety training

DESIGN AND CONTENTS OF AN EMPLOYMENT CONTRACT

There are different types of employment contract in Poland:

- Employment contract for an indefinite period ("umowa o pracę na czas nieokreślony")
- Fixed-term employment contract ("umowa o pracę na czas określony")
- Employment contract for a trial period ("umowa o pracę na okres próbny")
- Employment contract for replacement ("umowa o pracę na zastępstwo")
- Employment contract for a specified task ("umowa o pracę na czas wykonania określonej pracy").

The most common type of an employment contract is for an indefinite period.

The content of employment contract must include:

- 1) Type of work,
- 2) Place of work performance,
- 3) The remuneration for the type of work, called gross salary, indicating the remuneration components,
- 4) Working time
- 5) The date of commencement of work.

The employment contract is concluded in writing.

An employment contract can be terminated on the basis of:

- Notice of termination of employment contract
- Termination of employment contract without notice
- Parties' agreement
- Expiry

CAN SOMEBODY DO BUSINESS FOR ME AND NOT BE AN EMPLOYEE?

Yes, on the basis of civil law agreement. Types of civil agreements:

- Contract of mandate/freelancer contract ("umowa zlecenie") - commitment of one person (Contractor) to perform a specific legal action (eg. work) for another entity (Principal). Employers often use the mandate contracts as a replacement for the employment contract due to lower costs. In this form of employment, a particular job is essential, not its effect. Conclusion of contract of mandate is therefore justified in works like distribution of leaflets or telemarketing, security services, catering, cleaning, childcare, outsourcing legal services, accountancy and IT.



- Specific task contract ("umowa o dzieło") - the condition for the existence of this contract is determination of the task. It may have the nature of creative activity. The effect is what is important, not the fact of performing. For instance, such effect can be: drawing up the the balance sheet, creation of computer program or website, architect's design, organization of a concert or conference, presentation, scelpture, etc.

Apart from civil agreements, in Poland we can hire an employee on the basis of so called Management Contract. It is a specific form of employment, it can be either employment contract or civil agreement, and it concerns management personnel.

Other unusual employment occurs when a natural person conducts business activity. So called "Self-employment" (one-man company) is the act of generating one's income directly from customers, clients or other organizations as opposed to being an employee of a business. Such contract is popular with hairdressers, architects, accountants, lawyers or artists.



HOW TO READ FINANCIAL STATEMENTS IN POLAND

The basic Polish Financial Statements always consist of:

- Introduction to the financial statements
- Balance sheet: Assets and Equities & Liabilities
- Profit & Loss Statement
- Written notes to the financial statements



Rachunek zysków i strat (wariant porównawczy)	Profit and Loss Statement	Beginning of the year 01.02.2007	End of the year 31.12.2007
Przychody netto ze sprzedaży i zrównane z nimi, w tym	Net incomes from sale of product and goods, incl.	-	-
od jednostek powiązanych	- from related parties	-	-
Przychody netto ze sprzedaży	Income from sale of products	-	-
Zmiana stanu produktów	Change of product status (increase-positive value, decrease- negative value)	-	-
Koszt wytworzenia prod. na własne potrzeby jednostki	Costs of goods produced for own Company's needs	-	-
Przychody netto ze sprzedaży towarów i materiałów	Incomes from sale of goods and materials	-	-
Koszty działalności operacyjnej	Costs of ordinary activities	-	-
Amortyzacja	Depreciation	-	-
Zużycie materiałów i energii	Usage of materials and energy	-	-
Usługi obce	Services	-	-
Podatki i opłaty, w tym:	Taxes and charges, inc.:	-	-
podatek akcyzowy	-excise duty	-	-
Wynagrodzenia	Remuneration	-	-
Ubezpieczenia społeczne i inne świadczenia	Social security	-	-
Pozostałe koszty rodzajowe	Other costs	-	-
Wartość sprzedanych towarów i materiałów	Value of sold goods and materials	-	-
Zysk (Strata) ze sprzedaży (A-B)	Profit/Loss on Sale (A-B)	-	-
Pozostałe przychody operacyjne	Other operational income	-	-
Zysk ze zbycia niefinansowych skl. aktywów trwałych	Profit from sale of not-finance fixed assets	-	-
Dotacje	Subventions	-	-
Inne przychody operacyjne	Other income	-	-
Pozostałe koszty operacyjne	Other operational costs	-	-
Strata ze zbycia niefinansowych aktywów trwałych	Loss on sale of not-finance fixed assets	-	-



Aktualizacja wartości aktywów niefinansowych	Write-offs updating value of not-finance assets	-	
Inne koszty operacyjne	Other costs	-	
Zysk (Strata) na działalności operacyjnej (C+D-E)	Profit/Loss on operational activity (C+D+E)	-	
Przychody finansowe	Financial Income	-	
Dywidendy i udziały w zyskach, w tym:	Dividends and profit sharing, incl.:	-	
od jednostek powiązanych	- from related parties	-	
Odsetki, w tym:	Interests, incl.:	-	
od jednostek powiązanych	- from related parties	-	
Ze zbycia inwestycji	Profit from sale of investments	-	
Aktualizacja wartości inwestycji	Updating of investments value	-	
Inne	Other	-	
Koszty finansowe	Financial Costs	-	
Odsetki, w tym:	Interests, incl.:	-	
dla jednostek powiązanych	- from related parties	-	
Strata ze zbycia inwestycji	Loss on sale of investments	-	
Aktualizacja wartości inwestycji	Updating of investments value	-	
Inne	Other	-	
Zysk (Strata) na działalności gospodarczej (F+G-H)	Gross profit / loss on economical activities (F+G-H)	-	
Wynik na zdarzeniach nadzwyczajnych (J.I.-J.II.)	Result on extraordinary occurrences (J.I. - J.II)	-	
Zyski nadzwyczajne	Extraordinary incomes	-	
Straty nadzwyczajne	Extraordinary losses	-	
Zysk (Strata) brutto (I+/-J)	Gross profit / loss (I+J)	-	
Podatek dochodowy	Income Tax	-	
Pozostałe obowiązkowe zm. zysku (zw. straty)	Other obligatory decreases of profit (increases of loss)	-	
Zysk (strata) netto (K-L-M)	Net profit / loss (K-L-M)	-	



BALANCE SHEET - ASSETS	Bilans - Aktywa	per 01.02.200 7	per 31.12.200 7
Fixed assets	Aktywa trwałe		
Intangible assets	Wartości niematerialne i prawne		
Costs of Development Activities	Koszty zakończonych prac rozwojowych		
Goodwill	Wartość firmy		
Other intangible assets	Inne wartości niematerialne i prawne		
Advance Payment on Intangible	Zaliczki na wartości niematerialne i prawne		
Tangible fixed assets	Rzeczowe aktywa trwałe		
Fixed assets	Środki trwałe		
land (incl. Perpetual usufruct)	grunty w tym prawo użytkowania wieczystego gruntu)		
buildings, apartments, objects of land & water engineering	budynki, lokale i obiekty inżynierii lądowej i wodnej		
technical facilities and machinery	urządzenia techniczne i maszyny		
vehicles	środki transportu		
other fixed assets	inne środki trwałe		
Fixed assets under construction	Środki trwałe w budowie		
Advance Payments on Fixed Assets	Zaliczki na środki trwałe w budowie		
Long term Receivables	Należności długoterminowe		
From related parties	Od jednostek powiązanych		
To related parties	Od pozostałych jednostek		
Long term Investments	Inwestycje długoterminowe		
Real properties	Nieruchomości		
Intangible assets	Wartości niematerialne i prawne		
Long term finance assets	Długoterminowe aktywa finansowe		
in related parties:	w tym od jednostek powiązanych		
- shared and stocks	udziały lub akcje		
- other securities	inne papiery wartościowe		
- loans granted	udzielone pożyczki		
- other long term finance assets	inne długoterminowe aktywa finansowe		
in other parties	w pozostałych jednostkach		
- shared and stocks	udziały lub akcje		
- other securities	inne papiery wartościowe		
- loans granted	udzielone pożyczki		
- other long term finance assets	inne długoterminowe aktywa finansowe		
Other long term investments	Inne inwestycje długoterminowe		
Accrued Expenses and Revenues	Długoterminowe rozliczenia międzyokresowe		
Assets from deferred income tax	Aktywa z tytułu odroczonego podatku dochodowego		



Other accrued expenses and revenues	Inne rozliczenia międzyokresowe		
Current Assets	Aktywa obrotowe		
Inventory	Zapasy		
Materials	Materiały		
Semi-products and production in process	Półprodukty i produkty w toku		
Products	Produkty gotowe		
Goods	Towary		
Advances for deliveries	Zaliczki na dostawy		
Short term receivables	Należności krótkoterminowe		
Receivables from related parties	Należności od jednostek powiązanych		
trade receivables, with due date:	z tytułu dostaw i usług o okresie spłaty		
- up to 12 months	do 12 m-cy		
- over 12 months	powyżej 12 m-cy		
other	inne		
Receivables from other parties	Należności od pozostałych jednostek		
trade receivables, with due date:	z tytułu dostaw i usług o okresie spłaty		
- up to 12 months	do 12 m-cy		
- over 12 months	powyżej 12 m-cy		
from taxes, subsidias, customs duty, social security	z tytułu podatków, dotacji, ceł, ubezpieczeń społecznych i zdrowotnych oraz innych świadczeń		
other	inne		
sued before court	dochodzone w drodze sądowej		
Short term investments	Inwestycje krótkoterminowe		
Short term finance assets	Krótkoterminowe aktywa finansowe		
in related parties:	w jednostkach powiązanych		
- shared and stocks	udziały lub akcje		
- other securities	inne papiery wartościowe		
- loans granted	udzielone pożyczki		
- other short term finance assets	inne krótkoterminowe aktywa finansowe		
in other parties	w pozostałych jednostkach		
- shared and stocks	udziały lub akcje		
- other securities	inne papiery wartościowe		
- loans granted	udzielone pożyczki		
- other short term finance assets	inne krótkoterminowe aktywa finansowe		
Cash and other monetary assets	środki pieniężne i inne aktywa pieniężne		
- cash in hand and bank	środki pieniężne w kasie i na rachunkach		
- other cash resources	inne środki pieniężne		
- other monetary assets	inne aktywa pieniężne		
Other short term investments	Inne inwestycje krótkoterminowe		



Short term accrued expenses and revenues	Krótkoterminowe rozliczenia międzyokresowe		
TOTAL ASSETS	AKTYWA RAZEM		
BALANCE SHEET - EQUITIES&LIABILITIES	Kapitał własny	per 01.02.2007	per 31.12.2007
Owner's capital	Kapitał podstawowy - udziałowy		
Share capital	Należne wpłaty na kapitał podstawowy		
Called-up Shared Capital not Paid	(wielkość ujemna)		
Own shares (negative value)	Udziały (akcje) własne (wielkość ujemna)		
Capital reserve	Kapitał zapasowy		
Capital reserve from revaluation	Kapitał z aktualizacji wyceny		
Other capital reserves	Pozostałe kapitały rezerwowe		
Profit / Loss from previous years	Zysk (strata) z lat ubiegłych		
Net profit / loss	Zysk (strata) netto		
Write offs from net profit (negative value)	Odpisy z zysku netto w ciągu roku obrotowego(wielkość ujemna)		
Liabilities and Provisions	Zobowiązania i rezerwy na zobowiązania		
Provisions for liabilities	Rezerwy na zobowiązania		
Provision for deferred income tax	Rezerwy z tytułu odroczonego podatku dochodowego		
Provisions for retirement benefits and others	Rezerwy na świadczenia emerytalne i podobne		
- long term	długoterminowe		
- short term	krótkoterminowe		
Other provisions	Pozostałe rezerwy		
- long term	długoterminowe		
- short term	krótkoterminowe		
Long term liabilities	Zobowiązania długoterminowe		
To related parties	Wobec jednostek powiązanych		
To other parties	Wobec pozostałych jednostek		
credits and loans	kredyty i pożyczki		
assoc. with issuing of securities	z tytułu emisji dłużnych papierów wartościowych		
other financial liabilities	inne zobowiązania finansowe		
other	inne		
Short term liabilities	Zobowiązania krótkoterminowe		
To related parties	Wobec jednostek powiązanych		
trade payables, with due date:	z tytułu dostaw i usług o okresie wymagalności		
- up to 12 months	do 12 m-cy		



- over 12 months	powyżej 12 m-cy		
others	inne		
To other parties	Wobec pozostałych jednostek		
credits and loans	kredyty i pożyczki		
assoc. with issuing of securities	z tytułu emisji dłużnych papierów wartościowych		
other financial liabilities	inne zobowiązania finansowe		
trade payables, with due date:	z tytułu dostaw i usług o okresie wymagalności		
- up to 12 months	do 12 miesięcy		
- over 12 months	powyżej 12 miesięcy		
advances received on deliveries	zaliczki otrzymane na dostawy		
bill of exchange payables	zobowiązania wekslowe		
taxation, customs, social sec. payables	z tytułu podatków, ceł, ubezpieczeń i innych świadczeń		
remuneration payables	z tytułu wynagrodzeń		
other	inne		
Special funds	Fundusze specjalne		
Deffered Charges and Income	Rozliczenia międzyokresowe		
Negative goodwill	Ujemna wartość firmy		
Other deffered charges and income	Inne rozliczenia międzyokresowe		
- long term	Długoterminowe		
- short term	Krótkoterminowe		
TOTAL EQUITIES AND LIABILITIES	PASYWA RAZEM		