Annex 2. Inventory of Taxes – Poland

INTRODUCTION

(1) Constitutional basis of taxes

The Polish tax system has received a strong constitutional basis lately. Article 84 of the Constitution lays down the principles of civil tax duty; the article contains:
- a protection against introducing burdens, which do not have any features of taxes,
- a component of control, i.e. an individual constitutional duty of every citizen,
- a prohibition to bypass the tax law.

The same article 84 and article 217 of the Constitution create the statutory principle of tax duty control. Article 27 regulates principles of dividing tax duty between different groups of taxpayers and tax subjects.

Article 92 of the Constitution points at the existing relation between statutory regulations and executive certificates.

The standard principles of a democratic state have to be applied in the fiscal law

(2) The Tax Law

The Tax Law, which has some elements of a Tax Code, has come into force since 01.01.1998. In the Tax Law the following principles are layed down:
- the general tax law,
- the tax duties,
- the principles describing the checking actions,
- the tax control,
- the tax proceedings,
- the way of passing on tax information,
- the tax secret.

The Tax Law is a first step to a further development of the general tax system.

(3) The classification of the Polish system of taxes and charges

(3.1) Taxes

Taxes in the Polish system are:
- Value Added Tax (VAT)
- excise duties
- gambling tax
- personal income tax
- corporate income tax
- lump sum tax (charge), which is is only a form of collection of the personal income tax
- inheritance and gift tax
- agricultural tax
- forest tax
- real estate tax
- tax on means of transportation
- tax on dogs.

(3.2) Charges

Charges in the Polish system are:
- fiscal charge
- market charge

- administrative charge.

(4) Local revenues coming from taxes and charges.

Local revenues consist of:

- real estate tax
- agricultural tax
- forest tax
- share of personal income tax
- share of corporate income tax
- tax on individual business activity
- tax on means of transportation
- tax on dogs
- inheritance and gift tax
- fiscal charge
- market charge
- administrative charge
- mining tax (regulated by the Mining Law).

(5) Framework of the Polish tax system according to objective classification:

- taxation on revenues
- taxation on incomes (profits)
- taxation on property
- taxation on consumption.

<u>Annex 2.1. Taxes in Force as of 1999</u>

PO°1.1.1.
PO°1.1.2.
PO°1.1.3.

Individual Income Tax

(Podatek dochodowy od osób fizycznych)

Legal base:

Tax law of July 26., 1991 *(Ustawa z 26 lipca 1991 o podatku dochodowym od osob fizycznych)*, latest amendment Nr 162 of 1998 *(rozporzadzenie ministra finansow , Dz.U. nr 162, 1998)*

Beneficiary:

Central government

Local government:
- personal income tax from business activities, paid by a lump-sum form of taxation
- 27,6 percent of the revenue from personal income tax from persons having their place of residence in a community (the share is distributed to the communities by central government)

Tax payable by:

Natural persons are subject to income tax. Persons having their place of residence in Poland or present in the country for more than 183 days in a fiscal year are subject to an unlimited tax obligation. Persons without permanent residence in Poland and staying in the country less than 183 days in a fiscal year are subject to a limited tax obligation, i.e. only on income generated in Poland.

In general each individual is taxed separately unless they apply for joint taxation, in the latter case the tax is assessed as twice the amount of tax which falls due on half of their joint income. The income of dependent children is added to the parents' income.

Basis of assessment:

The income tax has a general character. This tax is imposed on all revenues coming from different sources (labour, capital, property, established incomes - scholarships, pensions, and benefits).

Taxation in Poland covers all incomes generated by natural persons, with the exception of income from non-specialized agricultural activities and from forestry, income that is subject to inheritance tax and donation duty, income derived from illicit activities and income derived from the division of the joint property as a result of the cease or limitation of the marriage joint ownership.

The tax law lists a variety of types of payments that are defined as income and are subject to tax. Categories of income as given in the law are:
- income from dependent services such as employment or pensions
- income from independent services like professional, intellectual, artistic or sports activities
- income from business
- income from specialized branches of agriculture

- rental income
- income from money investments and property rights
- income from the sale of real estate and of property rights
- other income like social security benefits, grants scholarships or other, not belonging to the other categories, unless they are exempt.

Any class of payments not listed is thus legally not income and hence is not subject to taxation.

Both spouses' incomes as well as children's incomes can be taxed jointly.

Incomes from given loans, dividends on shares and other shares in net profit of corporations, as well as incomes which are paid for help to police, organs of state protection and treasury control as well as incomes from not disclosed sources of revenues and from winnings in games and competitions cannot be joined between married couples.

Exemptions:

The law lists, among others, the following main types of exempt income:
- income from non-specialized agricultural activities and from forestry
- gains from the sale of agricultural or forestry land for agricultural or forestry use.
- income on sales of government bonds issued after January 1., 1989 and local government bonds issued after January 1., 1997, income on stocks and certificates of the National Investment Fund and of industry funds are exempt from tax until December 31., 2000.
- income from interest on bank accounts (only if they are not linked to business activity), income on sales of compensation certificates, on interest and discount of government securities and of local government bodies are exempt from tax without any time limits.
- social welfare benefits and benefits paid from social funds in case of accidents, long illness or death.
- income from the sale of a flat or building if the money is used within 2 years for the acquisition of another flat or building.
- most fringe benefits
- The income tax does not cover revenues, which are taxed with other taxes (duties) (e.g. revenues from agriculture and forestry activity, revenues covered by the inheritance and gift tax).

But revenues coming from sources not disclosed are liable to taxation.

Deductions:

Within each category of income the expenses incurred to obtain this income are deductible; with respect to business income the same rules apply as for deductions from corporate income. For certain types of income the deductible expenses may be computed as a percentage of the earned income, e.g. 20% in the case of independent professional, intellectual, artistic or sports activities, 50% in the case of licence fees for inventions or copyright royalities.

Certain types of expenditure are deductible from the aggregate net income:
- social security contributions unless already deducted as expenses in one of the categories of income.
- donations for purposes of science, education, culture, religion, sports, ecology and charity, up to 10% or 15% of the income.
- costs for training and continuing education in connection with the taxpayer's income.
- cost of earning income - The cost of earning income is deducted at a set percentage (0.25) of the upper limit of the first tax band a month. Deductions are usually given automatically. If the real cost of earning income can be proved higher the real costs are deductible.

Deductible from the aggregate net income are:

- Expenditures on annuities, donations (only for the benefit of corporate bodies, to socially worthy causes, e.g. in support of science, education and culture- but no more than 15 per cent of the income, or in case of religious worship, charity or environment protection – no more than 10 per cent of income), expenditures on rehabilitation.
- expenditures on constructing a single or multi-family dwelling and expenditures to purchase a builiding ground for that reason, up to maxima specified by law.
- One general personal allowance for each individual.

Losses may be carried forward at one third each against the income of the next 3 years, but prior losses may not increase current losses.

Collection:

The withholding of tax from wages and salaries is undertaken by employers on a non-cumulative basis in monthly installments: 19 percent from the income received in the given month if the accumulated income throughout the tax year did not exceed the upper limit of the first tax band, 30 percent from the income received in the month after the month when the accumulated income throughout the tax year did exceed this limit and 40 percent when the accumulated income throughout the tax year did exceed the upper limit of the second tax band

Taxpayers must complete a tax return by 30. April every year.

Rates:

Rates on the aggregate taxable base, as of Jan. 1., 1999, are given in the following table:

Annual taxable income (PLN)	Accumulated tax on lower amount (PLN)	Plus % on the excess
up to 29.624	-	19
29.624 – 59.248	5.233.76	30
Above 59.248	14.120.96	40

The tax card

The tax card is a way of paying a lump sum tax substituting tax on personal income. The tax card is designed for taxpayers having small-scale production, providing particular kinds of services and running production activity (craftsmanship), retail trade in groceries (including agriculture goods), door-to-door sale of commodities, catering, transportation services, entertainment activity, home-meal sale, veterinary service and doing particular free professional health services, as by nurses and midwives.

Such taxpayers do not need to prove their factual revenues and costs with documents, they are not obliged in any way to keep a register, to declare the income received, and to pay the monthly advance tax payments.

The tax amount is calculated as a set amount for a particular period, in the form of a decision made in the particular case by the Tax Authority. Depending on individual circumstances the tax rates can be reduced or increased.

There are some tax preferences allowed for taxpayers who run their business in areas with high structural unemployment.

Lump sum tax (lump sum income tax on registered revenues from small business)

The tax rate is calculated as a set percentage of the received revenues, without deducting from it costs of earning income.

The tax rate depends on the kind of activity:

- 3 percent – for the revenues from retail trade and catering industry, with the exception for the revenues coming from the sale of drinks with more than 1,5 percent of alcohol
- 5,5 percent – for the revenues from craftsmanship, dwelling-house building business activity, transportation
- 8,5 percent – services, including catering industry with the revenues coming from the sale of drinks with more than 1,5 percent of alcohol

This kind of tax is used by persons running own business, if they gained revenues lower than Zl 400.000 in the year before the current tax year or they begin business activity in the current tax year and do not use the tax card. The taxpayers using this form of taxation are obliged to keep a simplified register of revenues and purchases. They have to allow paying this tax in monthly terms and hand in an information about an amount of revenues in the first half of the year - until 31.07., and after a year - until 31.01. the next year.

This form of taxation cannot be used by all taxpayers, especially not by taxpayers gaining income from the following activities: running a pharmacy, legal services (e.g. notary's), running an exchange office and pawnshop, service in accountancy.

PO°1.2.1.
PO°1.2.2.

Corporate Income Tax

(Podatek dochodowy od osób prawnych)

Legal base:

Tax Law 15. February 1992 (*Ustawa z 15 lutego 1992 o podatku dochodowym od osob prawnych)*, latest amendment Nr.162 of 20. November1998 *(nowelizacja ustawy z 20 listopada 1998)*

Beneficiary:

Central government

Local government: 5 percent of the receipts from corporate income tax from taxpayers having their place of residence in the community (the share is redistributed by central government).

Tax payable by:

Legal entities such as joint-stock companies, limited liability companies, state enterprises and cooperatives are subject to corporate income tax. Partnerships are not treated as companies; the partners are taxed individually on their share of the income. Some institutions not possessing legal personality, e.g. schools, educational associations, health service bodies, etc., are likewise not treated as corporations.

There exists an „unlimited tax obligation”. Tax is charged from total incomes, regardless of the place where these incomes are gained including income from abroad.

However, taxpayers with their head office or managing board situated abroad, are covered by „limited tax obligation” - taxed is only income gained on Polish territory. The following institutions are exempted from tax: State Treasury, National Bank of Poland, budgetary economic units, purposeful funds, international holdings, communities and units of communities.

Basis of assessment

Resident corporate entities are taxed on their world-wide income after deduction of the expenses incurred in obtaining such income. Capital gains from the sale of business assets are included in the taxable income. Receipts are treated as income on the date the sums are due and payable, interest is treated on a cash basis.

The tax basis is not joined with revenues treated by the Tax Act as tax-free, e.g. some revenues from sale of real estate being a part of a farm, revenues with purpose of charity and for the employment of handicapped persons. Moreover, the tax basis does not contain income from compensations, ... and over 20 other specified cases of income.

Exemptions:

Tax exempt types of income are:
- income from non-specialized agricultural activities and from forestry.
- gains from the sale of agricultural and forestry land that remains used as such.
- indemnities received.
- income from foreign sources as far as provided in an international agreement.

- income allocated and transferred to legal entities for charitable purposes and for the furthering of science, education, health, culture, sports, infrastructure development and environmental protection.
- the bodies exempted include: the Treasury, Polish National Bank, local authorities, special purpose funds, etc.

Deductions:

Deductible expenses are, among others:
- cost of earning income: depreciation allowances etc.
- advertising expenses
- donations for non-profit purposes
- donations for the benefit of corporate bodies in support of science, education, health, culture, sport, infrastructure development, environmental protection, religious worship, charity, public security and national defence.

Annual depreciation rates range from 1.5% to 50% depending on the type of asset.

There are tax incentives in the form of investment allowances; for preferential investments the allowance must not exceed 30% of the taxable base, for non-preferential investments this maximum allowance is 10%. For investments in special economic zones established for a period of 20 years and in communities with high structural unemployment additional allowances may be granted.

As of Jan. 1., 1999 losses may be carried forward for 5 years and up to 50% of the loss may be written off each year.

Special features:

The usual rules hold for groups of companies. Transfer pricing rules follow in general the OECD rules: “Transfer Pricing Guidelines”.

Collection:

Assessment of tax due is made on the basis of the taxpayer’s return. Monthly advance payments are due on their current year’s income or, under a new rule, on income reported for the preceding 6 month period.

Rates:

As of Jan. 1, 1999 the corporate income tax rate is 34%, down from a previous 36%; a decrease to 30% from the year 2000 on is established.

Tax rates on revenues mentioned in articles 21 and 22 of the Corporation Tax Act (taxpayers with limited tax obligation)– are
- 10 % for revenues from aerial navigation, sea navigation,
- 20 % for revenues from copyright, know-how, sport and entertainment activities.

Dividends received from resident companies are taxed with a withholding of 20% at the distributing company; the tax may be credited against the receiving company’s tax debt.

Dividends may be distributed only from after-tax profits.

PO°2.1.

Inheritance and Gift Taxes

(Podatek od spadków i darowizn)

Legal base:

Tax Law of July 28., 1983.

Beneficiary:

Local government

Tax payable by:

The tax obligation arises, when the taxpayer obtains any possession at no cost (inheritance, donation). Liable to this tax are natural persons, gaining a donation or a legacy situated on Polish territory.

Basis of assessment:

The net market value of all property received by the beneficiary; for apartments and dwelling houses the valuation is decreased.

There is a tax free allowance of

- 7510 Zloty for spouses, children, parents, brothers etc (group I),
- 5670 Zloty for nephews, spouses of brothers etc (group II),
- 3820 Zloty for others (group III).

Exemptions:

Property in Poland is exempt, if both the deceased/donor and heir/donee are neither Polish nationals nor residents.

Collection:

This tax is collected when the natural person acquires ownership.

Rates:

Rates depend on the closeness of family relationship between both parties, classified in 3 classes.

The inheritance and gift tax rates are progressive.

The actual rates range from

- 3-7 % for spouses, children, parents, brothers etc (group I), .
- 7-12 % for nephews, spouses of brothers etc (group II), .
- 12-20 % for others (group III).

The highest rates are applied to values in excess of 16020 Zloty.

Detailed rates:

Tax amount is calculated from the excess of the tax base over the tax free allowance according to the following rates:

From the beneficiary in the I tax group:

- up to 8.010 zl - 3%,

- From 8.010 zl to 16.020 zl - 240 zl 30gr plus 5% on the excess of 8.010 zl,
- from 16.020 zl - 640zl 80 gr plus 7% on the excess of 16.020 zl,

From the beneficiary in the II tax group:

- up to 8.010 zl - 7%,
- from 8.010 zl to 16.020 zl - 560 zl 70gr plus 9% on the excess of 8.010 zl,
- from 16.020 zl - 1.281 zl 60 gr plus 12 % on the excess of 16.020 zl,

From the beneficiary in the III tax group:

- to 8.010 zl - 12 %,
- from 8.010 zl to 16.020 zl - 961zl 20gr plus 16 % on the excess of 8.010 zl,
- from 16.020 zl- 2.242zl 80gr plus 20 % on the excess of 16.020 zl.

PO°3.1.1.
PO°3.1.2.

Value Added Tax

(Podatek od Towarow I Uslug)

Legal base:

The reform of turnover tax was finished by the acceptance of VAT. The Value Add Tax Act has been applied since 05.07.1993.

(Ustawa z 8 stycznia 1993 r. (8 January 1993) o podatku od towarow I uslug oraz o podatku akcyzowym.)

Latest amendment of 22 December 1999 *(rozporzadzenie ministra finansow z 22 grudnia 1999 r. w sprawie wykonania niektorych przepisow ustawy o podatku od towarow I uslug oraz o podatku akcyzowym)*

Beneficiary:

Central government

Tax payable by:

The taxpayers are natural persons and legal persons as well as organisational units, which are not legal persons. With agreement of the treasury office, branches of the above mentioned taxpayers can be made liable for the VAT.

Companies and individuals must register for and charge VAT, if their annual turnover exceeds PLN 80.000.

Basis of assessment:

The compensation received for goods supplied and services renderd is the taxable base; for imported goods it is the value at importation including customs duties.

Object of taxation is a sale of commodities or services. Öiable to VAT are as well:
- the donation of commodities and providing of services for needs of advertisement
- the donation of commodities and providing of services for personal needs of taxpayer, partners, shareholders, members of supervisory board and managing board, members of association, employed and former workers
- the exchange of commodities and services
- the donation of commodities
- the providing of services without payment
- the providing of commodities or provision of services in return for debts
- the provision of services or providing of commodities instead of payment.

Exemptions:

The following activities are not subject to VAT:
- exports, but not Polish goods acquired by tourists and taken abroad
- unprocessed agricultural products, cultural and social services, communal services
- sale of a company (whole or parts of it)
- activity in random-games
- illegal activity.

Rates:

- The general rate is 22 %.
- For children's articles, processed food articles, equipment for health care, agricultural machinery, fertilizers and pesticides the rate is 7 %.
- 0 % for export goods and services included in the lists provided in tax code
- 0 % for books, flats

PO°3.2.1.

Customs Duties

(Clo)

Legal base:

Customs Duties Code 09. January 1997 *(Kodeks celny z dnia 9 stycznia 1997)*, latest amendment Nr 23

Beneficiary:

Central government

Tax payable by:

See Customs Duties Code (Titel VII – Customs Duties obligation), and in particular: art. 208-225 (Area II – The base of the customs duties obligation), art. 231-242 (Area III –Payment of the customs duties obligation, Paragraph 2 – Collection)

Basis of assessment:

See Customs Duties Code (Titel II Calculation) - art. 13-14 (Area I – Rates, other tariffs and classification of goods), art. 15-20 (Areal II – Origination), art. 21-34 (Area III -Valuation)

Exemptions:

Exemptions are listed in art. 190 of Customs Duties Code.

Rates:

The rates are set every year by the Cabinet in a decree. The latest rates see Dz.U. on 23.12.1998r., Nr 158, poz. 1036.

PO°3.3.1.
PO°3.3.2.
PO°3.3.3.
PO°3.3.4.
PO°3.3.5.
PO°3.3.6.

The Polish Finance Ministry up to did not specify excise duties in greater detail. With email of March 27, 2000 they have been asked to give additional information. We propose to include this data as soon as it is available.

Excise Duties

(Podatek akcyzowy)

Legal base:

Have been collected since 05.07.1993 on the basis of the Value added tax and excise duty Act, passed on 08.01.1993. *(Ustawa z 8 stycznia 1993 r. (8 January 1993) o podatku od towarow I uslug oraz o podatku akcyzowym)*.

Beneficiary:

Central government

Tax payable by:

The taxpayers are only manufacturers and importers. The duty is to be paid before introducing a commodity into the market.

Basis of assessment:

The tax subject is - similar to VAT – the sale and exchange of excised commodities as well as importation or donation.

The tax basis depends on the kind of turnover. If there is turnover of goods by manufacturers, the tax basis is the scale of turnover, in importation – the value of commodity, increased by duty. For some goods the tax basis is the quantity, e.g. amount of wine in litres, for other goods it can be the sales price diminished by the VAT due. This way of taxation concerns also other taxpayers than manufacturers and importers.

Rates:

The rates range from 25% to 1900%.

The following is a list of commodities subject to different rates of excise duty:

- Excise Duties on Domestic Spirits
- Excise Duties on Imported Spirits
- Excise Duties on Domestic Fuels
- Excise Duties on Imported Fuels
- Excise Duties on Domestic Tobacco
- Excise Duties on Imported Tobacco
- Excise Duties on Domestic Beer
- Excise Duties on Imported Beer

- Excise Duties on Domestic Wine
- Excise Duties on Imported Wine
- Excise Duties on Other Products

PO°3.4.1.

Gambling Tax

(Podatek od gier)

Legal base:

Law of July 29, 1992

(Ustawa z dnia 29 lipca 1992 r. o grach losowych I zakladach wzajemnych.
Podatek od gier zostal wprowadzony ustawa z dnia 29 lipca 1992 r. o grach losowych i zakladach wzajemnych (Dz. U. z 1998r. Nr 102, poz. 650, Nr 145, poz. 946, Nr 155, poz. 1014 i Nr 160, poz. 1061) i obowiazuje od dnia 9 grudnia 1992 r).

Beneficiary:

Central government

The tax basis depends on the kind of the game and depends on the gross gambling income.

Tax payable by:

The entities operating in this field are subject to the gambling tax.

This tax is to be distiguished from the VAT revenue coming from gambling.

Basis of assessment:

Depending on the kind of the game.

Collection:

Rates:

The tax rates range from 10% and 15% to 45%.

PO°3.5.1.

Agricultural Property Tax

(Podatek rolny)

Legal base:

Law on Agricultural Property Tax of 15. November 1984

(Ustawa z 15 listopada 1984 o podatku rolnym)

Beneficiary:

Local government

Tax payable by:

The owner of agricultural property. The subject of taxation is the possession of a farm, independent of the achieved income from farming activity.

Basis of assessment:

The taxation basis is the area of a farm in conversion hectares. The conversion hectare is a conventional unit to be distinguised from the real area unit. The conversion rate is based on objective criteria, which are land location (4 taxation districts), the kind of a land (arable land or meadow), soil quality (arable land: 8 classes, meadow: 6 classes).

Exemptions:

- Arable land, class V, VI and VIz
- Land along the border line
- Ploughland, meadows, pasture with drainage system
- Arable area on which the farm production has been ceased for 3 years (up to 20% of the total are of the farm)
- Land that was used to be a waste land and was brought into cultivation is exempted for 5 years, in the next following 2 years there is a tax relief
- Land received as a result of the exchange or merge exempt for 1 year, in the following 2 years tax relief
- Area of the lakes, where flowing water, dams and water containers supplying people with water are located,
- Waste land
- Land used for activity other than agricultural
- Land which on the basis of administrative decisions is considered as for not for agricultural purposes.
- Land of no worth for agricultural activity
- Land of historical interest which fulfills certain conditions
- Land used for activity other than agricultural

.

Tax reliefs:

- Tax reliefs for investment
- Tax relief for farmers serving in the army and for farms situated in mountain and piedmont areas (depending on the class of the land)
- In the case of natural calamity

The Communal Council may introduce some additional tax exemptions and tax reliefs.

Subjects exempted:
- The Treasury
- Communes

Rates:

The tax scale is proportional and is counted in purchase price of rye. The tax from 1 conversion hectare is an equivalent in money to 2,5 quintals of rye. For the sake of inflation, the tax is charged twice a year on the basis of 1,25 quintals of rye.

PO°3.5.2.

Forest Property Tax

(Podatek lesny)

Legal base:

Tax Law of 28. September 1991.

Beneficiary:

Local government

Tax payable by:

The owner of forestry property

Basis of assessment:

The construction of this tax is similar to the agricultural property tax. It is not on revenue, because tax obligation depends on possession of forest, but not from gaining any economical advantages of it.

Exemptions:

- Forest with the standing timber of the age of 40 years
- Forest entered in a register of special protection

The Communal Council may introduce some addtitional exemptions

Tax reliefs:

Like for agricultural property, PO 3.5.1.

Rates:

The tax rates are different for the different categories.

PO°3.5.3.

Real Estate Property Tax

(Podatek od nieruchomosci)

Legal base:

Law of January 12., 1999.

(Ustawa o podatkach i oplatach lokalnych z 12 stycznia 1999)

Beneficiary:

Local government

Tax payable by:

The tax is levied on natural persons, legal persons and units not being legal persons, which are:
- landlord, independent owner of property or building structures not connected with land,
- owner, alternatively manager of real estate or building structures, which is National Treasury's or communes' property,
- perpetual lessee of property.

Basis of assessment:

The subject of taxation is:
- buildings or some parts of them
- structures destined for economical activity, different from agriculture or forestry
- lands not embraced by agriculture and forestry tax or covered by them, but provided for different activities than agriculture or forestry.

Basis of assessment is the area in square meters, for buildings in 3 classes, for land in 2 classes.

Exemptions:

Numerous kinds of lands, properties, buildings and structures are excluded from taxation (article 7), however the local council can introduce other exemptions.

Rates:

The minimum rates that the local selfgovernment council (Gmina) may levy are defined by decree of the Minister of Finance published every year. Within this frame the Gmina decides on the annual rates actually levied.

The maximum rates are defined by decree of the Minister of Finance published every year and must not be lower than 50 per cent of the upper limits of the maximum tax.

As of 1999 the maximum rates are given in the following table:

Type of real estate	Maximum annual tax per square meter
Residential buildings	0.33 PLN
Commercial buildings	11.95 PLN
Other buildings	3.98 PLN
Commercial land	0.40 PLN
Other land	0.05 PLN

Many local authorities apply lower rates with regard to new investments.

PO°3.6.1.

Tax on Means of Transportation

(Podatek od srodkow transportu)

Legal base:

Local Taxes and Charges Act of 12.01.1999.

(Ustawa o podatkach i oplatach lokalnych z 12 stycznia 1999)

Beneficiary:

Local government

Tax payable by:

The taxpayers are natural and legal persons that are the owner of a motor vehicle.

The tax subject is the ownership of useful (registered) motor vehicles, e.g. cars, tractors, trailers, motorcycles, yachts, ferries and boats if they have engines.

Basis of assessment:

The tax basis depends on the kind of motor vehicle and on the engine’s cubic capacity, as well as carrying capacity or total mass.

Rates:

The tax rate depends on the above mentioned features. The highest rates are described in the Act, but local authorities can reduce them.

PO°3.7.1.

Local Fees, Fiscal Charge

(oplaty lokalne, oplata skarbowa)

The fiscal charge payable on transactions as defined by common law may be treated as a tax. It is collected by central government tax authorities but it constitutes the income of the local government. The following informations relate only to the fiscal charge payable on transactions as defined by common law.

Legal base:

Law on Fiscal Charge of January 31., 1989

Decree of the Minister of Finance of December 9., 1994

Beneficiary:

Local government

Tax payable by:

Party of the transaction

Basis of assesment:

The value of the subject of the transaction, the details of the assessment are defined in the Law and in the Decree.

Exemptions:

1. foreign states, their diplomatic representations and consulates, international organizations and institutions, their branches and representations and also their members and other persons with the same rights if they are not Polish citizens nor their place residence is located on the territory of the Republic of Poland,
2. Exempt are the following parties of transactions as defined by common law:
   1) budgetary units,
   2) legal persons, whose statutory aim is scientific, scientific-technical, cultural activity and also activity in the field of sport and physical education, environment, charity, health service and social welfare, rehabilitation of the handicapped, religious activity if in the year preceeding the tax year they benefited from total exemption from income tax and on the condition that the subject of the sale is not an element of an enterprise run by those persons or that the purchase was not made on the account of an enterprise of that kind;

      the exemption does not relate to state enterprises, co-operatives and their unions and partnerships
   3) communities and unions of communities
   4) the Treasury,
   5) disabled persons purchasing rehabilitation equipment, wheelchairs and motorized bicycles,

6) disabled persons buying motorcycles or private cars in I or II category regardless of the kind of disability, or disabled persons of the III. category if the decision of the commission for disability and employment or any other document stating their motional handicap ispresented

7) Protected Work factories as defined by the regulations on employment and rehabilitation of disabled persons ,

8) State enterprises for organised sales of parts of the enterprises.

3. The following transactions:

1) sale of foreign money,

2) transfer of the ownership of immovables (and also of the lease, underlease, rent) with the exception of dwelling buildings or their parts located in city areas, as a result of the following contracts:

   a) sale contract,

   b) contract of life estate

   c) contract on the share of the inheritance,

   d) contract on the abolition of the co-ownership,

   e) contract of donation – in the part relating to the takeover of the debts and incrimination by the donator or to the obligations on the account of vendor or third parties,

   f) contract of exchange - up to the market value of the immovables – under the condition that immovables will become a part of the farm which belongs to the vendee,

3) sale of immovables, of right to hereditary tenure, of right to the ownership of a flat in a co-operative or one-family house or the right to the dwelling premises in a small dwelling-house, if the vendee is the previous owner (the tenant of herditary tenure) of:

   a) expropriated immovables, for which no other replacement immovables or other form of compensation was granted,

   b) sold immovables for the purpose of expropriation, which in case of expropriation would meet the criteria to be granted with replacement immovables,

   c) immovables or right to hereditary tenure purchased on the basis of the regulations on the protection and formation of the environment ,

   in the amount of the compensation received (the price), under the condition that the purchase occurred in 5 years time since the date of the compensation (payment) received.

4) sale of the dwelling building or its part, dwelling premises which constitute separate immovables, right to the ownership of a flat in a co-operative or one-family house or the right to the dwelling premises in a small dwelling-house if it takes place as a realisation or in relation to the multiparties agreement on exchange of the building or the rights to the dwelling premises,

5) sale of the dwelling building or its part, of dwelling premises which constitute a separate immovable, of right to the ownership of a flat in a co-operative or one-family house or the right to the dwelling premises in a small dwelling-house if it takes place with the purpose of the receipt (in exchange) of the rights to rent a flat in a co-operative or to the dwelling building or its part, occupied by the vendee on the basis of the lease contract as defined by regulations on lease of the dwelling premises and dwelling supplements ,

6) exchange of dwelling premises which constitute a separate immovables, of right to the ownership of a flat in a co-operative or one-family house or the right to the dwelling premises in a small dwelling-house if the parties of the contract are the persons of the I tax group according to the Tax Law on Inheritance and Gifts,
7) sale of the movables if the market value of the transaction's object does not exceed 50 zl,
8) commission sale contract if the value of the goods given to the commission agent for sale or the price paid by commission agent does not exceed 50 zl,
9) sale of precious metals, including coins after 1850 to the businesses authorised to the metal trade,
10) transfer of the ownership of equipment, objects and fixing located on the area of the plot that belongs to the workers' plot gardens,
11) sale of raw materials, basic materials and supplementary materials, semi-finished products, packages, spare parts, waste, off-scourings,
12) commission sale contract entered while performing business by a commission agent,
13) sale of stock to the brokers,
14) sale of Treasury bills issued by the Minister of Finance,
15) sale of bonds of the Polish National Bank.

4. Changes of lease or underlease contracts as a result of the changes of the rent amount.
5. Loan contracts:
   1) Granted by credit of lease enterprises (including the subjects who do not have their residence or headquarters on the territory of the Republic Poland) based on the regulations of the Bank Law,
   2) If the total sum or the value of the loans granted to the same person does not exceed 100 zl in one year,
   3) granted from company funds, worker unions funds and other purpose funds
6. Partnership contracts if the only area of their business activity is to gain and to produce building materials from local resources.
7. Warrantee contracts:
   1) warrantee on bills and on declarations attached to the bill,
   2) warrantee for a loans guarantee given by the workers pecuniary aid funds, co-operative saving-credit funds, fellow-workers saving-loans funds running their activities in the army and from company's social security fund,
   3) warrantee (guarantee) in relation to foreign trade,
   4) warrantee on debt promissory notes that guarantee loans granted to farmers, members of the farm co-operatives, workers of the agricultural and forestry service, workers of the state farm enterprises and settlers if guarantor is :
      a) a spouse of the debtor, regardless of the loan amount,
      b) other person if the loan amount does not exceed 100 zl,
   5) warranteee on debt promissory notes that guarantee loans granted by banks to agricultural co-operatives, agricultural associations, farming associations and collective bodies of individual farmers, if the guarantor is a member of those organisations,

6) warrantee for loans and credits guarantee granted from special purpose funds,
7) The Treasury.

8. Mortgage:

1) statutory,
2) obligatory,
3) on trade and fishery ships,
4) warrantee on subsidies or other forms of financial help granted to social organisations in the field of sport and tourism,
5) for guarantee of the bank liabilities by right of the individual credits granted to farmers for the purchase of a farm or its part or for the purchase of buildings located on parcels from the persons who transferred their farms to the State in exchange of the pension or old-age pension,
6) for guarantee of the bank liabilities by right of the credits granted to individual farmers or collective bodies of individual farmers for inventory or component construction together with the equipment ,
7) for guarantee of co-operative liabilities and debts,
8) for guarantee of loans and credits granted by special purpose funds.

Transactions that are not subject to fiscal charge::

1. transactions as defined by common law in case of:

a) alimony, care, wardship and adoption,
b) social security, pension and old-age pension, social welfare, deductions granted to soldiers carrying out the obligatory army service and to persons doing replacement service and their families, and also authorizations and deductions for disabled persons and combatants
c) Sejm and Senat elections, elections to national councils and referendum,
d) general defence obligation,
e) employment, social security benefits and wages,
f) science, education and health,
g) activities based on regulations on expropriations of immovables,
h) sale of immovables for the purpose justifying the expropriation,
i) sale of immovables or the right to herediatary tenure by pre-emption or redemption carried out by the Treasury,
j) sale or exchange of immovables or the right to hereditary tenure based on regulations on protection and formation of environment and regulations on arable land and expropriation of immovables,
k) sale of goods in the proceedinsgs of execution and bankruptcy.

2. Transactions as defined by common law:

a) contract on sale, lease, underlease, rent entered by VAT payers and other contracts of that kind,
b) loan contracts entered between the persons from the I tax group according to the Tax Law on Inheritance and Gifts- up to the amount that equals to free tax allowance,

c) sale contracts of the separate permanent living accommodation and dwelling premises, in which Army House Agency is the party..

Reductions:

1. if one party of the transaction as defined by common law is exempted from fiscal charge fee obligation then the tax rate is reduced by 50%.

2. sale of the farm machines, agrimators and trailers to farmers, then the tax rate is reduced by 50%.

Rates:

Tax rates depend on the sort of the transaction as described in common law and are set by the Minister of Finance.

Local Fees

Local Taxes and Charges Act of 12.01.1999.

(Ustawa o podatkach i oplatach lokalnych z 12 stycznia 1999)

examples are:

Dog Tax

(Podatek od posiadania psow)

Legal base:

Local Taxes and Charges Act of 12.01.1999.

Beneficiary:

Local government

Tax payable by:

The taxpayers are natural persons, possessing dogs.

Basis of assessment:

The tax subject and basis is a fact of owning a dog. The dog is treated as a luxury good.

Exemptions:

There are the tax exemptions for:
- members of foreign consular staff (on mutual principle)
- disabled persons - a dog is treated as help
- people over 70 years old, running a household on their own
- people, who own farms (two dogs).

Rates:

The tax rate is proportional and established by the local authorities.

PO°3.7.8.

Rehabilitation Fund Contribution

(Fundusz Rehabilitacyjny osob niepelnosprawnych)

Legal base:

Tax Law of 27.08.1997

Beneficiary:

The contributions are paid for the benefit of the Fund. The income is aimed at:

1) financing part of the social security contributions for disabled persons employed in so called Labour Protected workshops and Labour Activity workshops,
2) refund of the wages cost and social security contributions for disabled persons sent to work by district Job Center,
3) organising work places for disabled persons and adjusting the existing work places to the needs resulting from the disability,
4) financing a part of or refund of wages paid off to disabled persons employed in so called Labour Protected workshops,
5) financing a part of therapy for disabled persons,
6) financing a part of the interest from the bank credits contracted by Labour Protected workshops,
7) removal of architectural barriers for disabled persons.

Tax payable by:

Contributions are paid by employers.

Basis of Assessment and Rates:

1) The employer who employs at least 25 employees calculated in units of working time is obliged to pay contributions for the benefit of the Rehabilitation Fund monthly as a product of a set 40,65% of the average wage level and the number of work units that the employer stays below the level of 6% of empöoyment of disabled employees.
2) The employer pays for the benefit of Rehabilitation Fund 50% of the recources received as a result of tax relief from the income tax.
3) An employer who has not organised in a set period of time a workplace for a person who became disabled as a result of an accident at work or as an result of occupational desease is obliged to pay the amount of 15 times of the average wage on the day of termination of terms of employment.
4) The fund is aided also with budgetary donations and with gifts given by employers.

PO°3.7.9.

Employment Fund Contribution

(Fundusz Gwarantowanych Swiadczen Pracowniczych)

Legal base:

Tax Law of 14.12.1994

Beneficiary:

The President of the Central Job Center is a disposer of the Employment Fund. The funds resources are assigned to finance the following activities,e.g.:

1) Costs of training of employees and unemployed persons and other authorized persons,
2) Financial benefits and social security contributions paid to unemployed persons,
3) Costs of employment of graduates sent by a Job Center,
4) Credit tickets distributed to the persons sent by a Job Center to work in another city/town/village.
5) Salaries and social security contributions paid to young people employed on the basis of a training work contract,
6) Planning, publishing and distribution of information about services of the job centers and other agents on the job market, for unemployed and other job-seeking persons, and for employers,
7) Activities related to the realisation of special programs.

Tax payable by:

Contributions are paid by employers.

Income of the Employment Fund:

1) contributions paid by employers,
2) budget donations to supplement the funds of the Employment Fund assigned to payment of the obligatory benefits,
3) income from the purchase of Treasury bills and Government securities,
4) income from purpose deposits in banks and other public institutions or warranted by the Treasury,
5) contributions paid by foreign partners for Polish workers employed on the basis of international agreement,
6) other income.

Basis of assessment:

The contributions are calculated as a set percent of the basis of assessment for the purpose of social security contributions. The basis of assessment must not be less than the level of a monthly average wage.

Rates:

The rates are set by the Cabinet in the form of a decree after consultation with the High Employment Council. In year the2000 the rate has been set on the level of 0,08% of the basis of assessment

PO°4.

Social Security Contributions

(Skladki na ubezpieczenia spoleczne)

Legal base:

Ustawa z 17 grudnia 1998r (17 December 1998) o emeryturach I rentach z Funduszu Ubezpieczen Spolecznych

Tax payable by:

Employers, Employees and selfemployed persons for old-age pension, disability insurance, health and maternity insurance and injury insurance.

Basis of assessment:

Basis of the contributions is income as defined for income tax purposes.

For selfemployed persons the maximum base of assessment for pension and disability insurance is the annual equivalent of 30 average salaries as projected for the respective year; with respect to health, maternity and injury insurance there is no such maximum.

Special features:

The pension insurance is a “three pillar system”:

Pillar I: obligatory public system financed through the Social Security Fund FUS.

Pillar II: obligatory private pillar based on private pension funds.

Pillar III: all voluntary private pension plans, life insurance etc.

Rates:

Purpose of payment	Employer (%)	Employee (%)
Pension insurance	9.76	9.76
Disability insurance	6.50	6.50
Health and maternity in.	-	2.45
Injury insurance	2.03	-
Total	18.29	18.71

The contributions are deductible for purposes of income tax by both employers and employees.

Previous contributions for the Account of the Department of Social Security *(Zaklad Ubezpieczen Spolecznych)* to be paid until 1998.

Wage Guarantee Fund Contribution

(Fundusz Gwarantowanych Swiadczen Pracowniczych)

Legal base:

Tax Law of 29.12.1993

Beneficiary:

Contributions for the benefit of the Fund are used in order to satisfy the claims of the employees in of case when bankruptcy proceedings against an insolvent employer, of a business closing down or when an employer factually ceases the business and does not have the financial resources to pay off the wages due. The fund pays off also unreiterated benefits in the amount of the wages due when an employer is in temporary difficulties. The benefits paid off are a liability to be paid back to the Fund from the insolvent property of the previous employer.

Tax payable by:

Contributions are paid by employers. Contributions to the Fund are treated as business cost.

Income of the Wage Guarantee Fund:

1) contributions paid by employers,
2) the recovered payments by right of employees benefits and also their equivalent in immovables and in the rights related to the immovables of the overtaken by the Fund,
3) any surplus resulting from the sale of immovables and of the rights related to them (equivalent – see point 2),
4) interests on the investment of the financial surpluses of the Fund,
5) bequests and donations,
6) gifts given to the Fund by employers.

Basis of assessment:

The contributions are calculated as a set percentage of the basis of assessment for the purpose of social security contributions.

Rates:

The rates are set by the Minister of Labour and Social Policy in the form of a decree with the agreement of the Ministry of Finance and the Fund's Council. In the year 2000 the rate has been set on the level of 0,08% of the basis of assessment.

Annex 2.2. Tax Changes from 2000 onwards

(1) Decided Tax Changes

PO°1.2.

Corporation tax

A decrease to 30 percent in the year 2000 and to 28 percent in 2001 is established.

PO°4.

Social contributions

The following table gives the present rates of injury insurance:

From 1. January 2000 change from a fixed rate of 2.03 % to a differentiated system depending on the branch; the rates vary from 0.4 % of wages to 8.12 %.

(2) Plans from 2000 onwards

PO°3.5.1.

VAT

There are plans to introduce a 3% tax rate for agriculture.

PO°3.5.1.

Agricultural Property Tax

There is expectation to connect the agriculture tax with the tax on income.

PO°3.5.3.

Real Estate Property Tax

Basis of assessment: Presently the area in square meters, for buildings in 3 classes, for land in 2 classes.

After 2003 it is planned to introduce a tax that is based on the value instead of the size of the property.

Annex 2.3. Taxes Abolished

PO°1.1.4.
PO°1.1.5.

Income Equalization Tax *(Podatek wyrównawczy)*

Legal base: Tax Law of 28. July 1983 on equalisation tax *(Ustawa z dnia 28 lipca 1983r. o podatku wyrównawczym)*

Abolished on 1. January 1992 by Tax Law of July 26., 1991 on Personal Income Tax.

PO°3.1.3.

Previous Turnover Tax *(Podatek obrotowy)*

Legal base: Tax Law of 16. December 1972 on Turnover Tax *(Ustawa z dnia 16 grudnia 1972r. o podatku obrotowym)*

Tax Law of 26. February 1982 on taxation of socialised sector units *(Ustawa z dnia 26 lutego 1982r. o opodatkowaniu jednostek gospodarki uspolecznionej Dz.Ust. z 1987r., nr 12, poz.77)*

Abolished on 5. July 1993 by Tax Law of 8 January 1993. on VAT and Excises *(Dz.Ust. nr 11 z 1993, poz.50)*

PO°3.2.2.
PO°3.2.3.

Import Tax *(Podatek importowy)*

Legal base: Tax Law of 25. November 1993 on Import Tax (Ustawa z dnia 25 listopada 1993 roku o podatku importowym Dz.Ust. z 1993, nr 123, poz.551)

Introduced in 1994 and abolished on 31. December 1995 as it was not prolonged, The tax Law was set for one tax year and had to be prolonged.

Compensatory Fees on Agricultural Imports were part of the Import Tax.

PO°3.7.2.
PO°3.7.3.

Abolished Taxes, examples:

a) Previous Personal Income Tax *(Podatek dochodowy od osób fizycznych)*

Legal base: Tax Law of 16. December 1972 on Personal Income Tax *(Ustawa z dnia 16 grudnia 1972r. o podatku dochodowym)*

Abolished on 1. January 1992 by Tax Law of July 26., 1991 on Personal Income Tax.

b) Previous Profit Tax *(Podatek od Zyskow)*

Corporate Income Tax *(Podatek dochodowy od osób prawnych)*

Legal base: Tax Law of 31. January 1989 on Corporate Income Tax (Ustawa z dnia 31 stycznia 1989 r. o podatku dochodowym od osób prawnych)

Abolished on 15. February 1992 by Tax Law of February 15., 1992 on Corporate Income Tax

c) Agricultural Tax *(Podatek rolny)*

Legal base: Tax Law of 15. November 1984 on Agricultural Tax *(Ustawa z dnia 15 listopada 1984 r. o podatku rolnym)*

Abolished to the extent relating to the agricultural tax from personal income coming from special farm production on 1. January 1992 by Tax Law of July 26., 1991 on Personal Income Tax.

d) Real Estate Tax *(Podatek od nieruchomosci)*

Legal base: Tax Law of 14. March 1985 on Local Taxes and Fees *(Ustawa z dnia 14 marca 1985r. o podatkach I oplatach lokalnych)*

Abolished by Tax Law of 12. January 1991 on Local Taxes and Fees.

e) Road Tax *(Podatek drogowy)*

Legal base: Tax Law of 14. March 1985 on Local Taxes and Fees (Ustawa z dnia 14 marca 1985r. o podatkach I oplatach lokalnych)

Abolished by Tax Law of 12. January 1991 on Local Taxes and Fees.

f) Tax on Dogs *(Podatek od posiadania psów)*

Legal base: Tax Law of 14. March 1985 on Local Taxes and Fees *(Ustawa z dnia 14 marca 1985r. o podatkach I oplatach lokalnych)*

Abolished by Tax Law of 12. January 1991 on Local Taxes and Fees.

PO°3.7.4.
PO°3.7.5.

Wages Tax (Podatek od wynagrodzen)

Legal base: Tax Law of 4. February 1949 on Wages Tax (Ustawa z dnia 4 lutego 1949r. o podatku od wynagrodzen)

Abolished on 1. January 1992 by Tax Law of July 26., 1991 on Personal Income Tax.

PO°3.7.6.
PO°3.7.7.

Salaries Tax (Podatek od plac)

Legal base: Tax Law of 26. February 1982 on taxation of the socialised sector units (Ustawa z dnia 26 lutego 1982r. o opodatkowaniu jednostek gospodarki uspolecznionej).

Abolished on 1. January 1992 by Tax Law of July 26., 1991 on Personal Income Tax.

PO°3.7.10.
PO°3.7.11.

Penalties for Excessive Pay Roll Increases and Excessive Wage Tax *(Podatek od ponadnormatywnego wzrostu wynagrodzen - popiwek)*

Podatek od ponadnormatywnego wzrostu wynagrodzen (popiwek) zostal wprowadzony w 1993 roku Ustawa ksztaltowaniu srodków na wynagrodzenia w panstwowej sferze budzetowej w 1993 roku oraz zmianie ustawy o wynagrodzeniach osób zajmujacych kierownicze stanowiska panstwowe (Dz.U. z roku 1993 , Nr 80, poz. 350).

Abolished: on 1. Jan. 1995 by Tax Law of Dec. 16., 1994.