



DOING BUSINESS IN POLAND

Legal framework

May 2015

TABLE OF CONTENTS

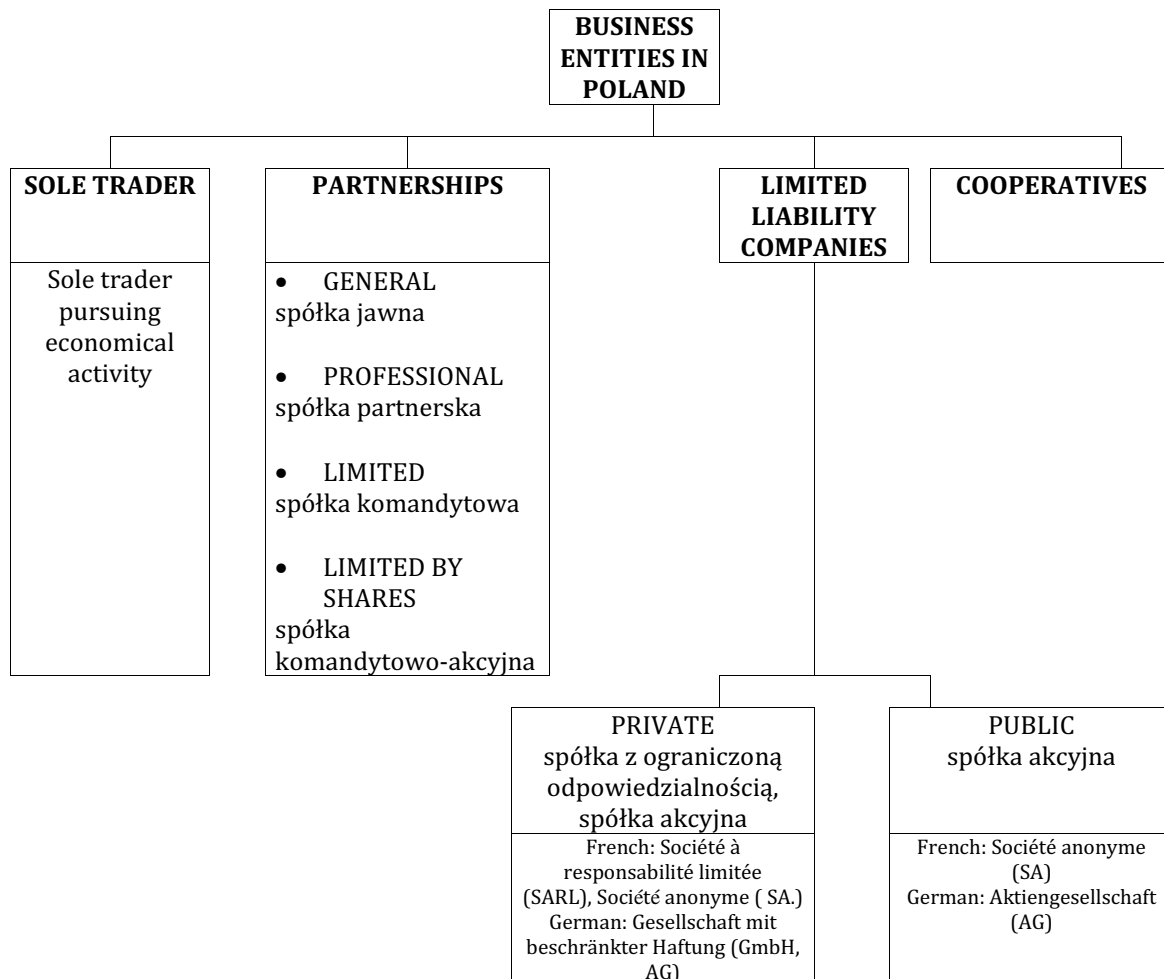
I. FORMS OF A BUSINESS ACTIVITY IN POLAND	3
II. COMMERCIAL COMPANIES AND PARTNERSHIPS	5
III. LIMITATIONS ON THE FREEDOM OF BUSINESS ACTIVITY	8
IV. ACQUISITION OF REAL ESTATE BY FOREIGNERS	9
V. EMPLOYMENT OF FOREIGN NATIONALS	10
VI. TAXES AND EXPENSES RELATED TO THE PURSUIT OF A BUSINESS ACTIVITY IN POLAND	11
VII. INVESTMENT INCENTIVES IN POLAND	13

I. FORMS OF A BUSINESS ACTIVITY IN POLAND

Business entities

A business entity may take one of the following forms:

1. a sole trader,
2. a legal person, including limited liability companies,
3. an organisational unit without legal personality, including partnerships as general partnerships, professional partnerships, limited partnerships and partnerships limited by shares.



Registration of business entities

Commercial companies, partnerships and branches of foreign business entities are registered in the Register of Business Entities which is a part of the National Court Register.

Sole traders are registered in the Central Register and Information of Business Activity (CEIDG) held by the Minister of Economy.

Representative offices of foreign business entities are registered in the register of representative offices of foreign business entities held by the Minister of the Economy.

Conduct of a business activity by foreign business entities

Business entities from the member states of the European Union (EU), the European Free Trade Association (EFTA), the European Economic Area (EEA) as well as the states that are not members of the EEA, but due to conventions signed with the European Community are granted the freedom of economical activity, may start and conduct business activity in Poland in all forms available for Polish business entities. The same rule applies to foreigners other than mentioned above who obtained permission for permanent residence in Poland, a residence permit for EU long-term residents, or other permissions for residence in Poland provided by Polish Law.

Business entities from the member states of the EU, the EFTA, the EEA and the states that signed conventions regulating freedom of service with the European Community and its member states can temporarily render services on the basis of rules determined by the Lisbon Treaty or these conventions, without being obliged to enter into the register of business entities or information of business activity.

Any other foreign persons may establish and conduct a business activity in Poland only in the form of a limited partnership, a partnership limited by shares or a limited liability company. Such foreign business entities can also join such partnerships or companies, and acquire or hold shares in them.

II. COMMERCIAL COMPANIES AND PARTNERSHIPS

Companies

Foreign business entities conduct their business activity in Poland mainly in the form of limited liability companies. The Commercial Companies Code (hereinafter called CCC) provides for two forms of limited liability companies - *spółka z ograniczoną odpowiedzialnością* (abbr. *sp. z o.o.*) and *spółka akcyjna* (abbr. *S.A.*). Please see the table below comparing essential characteristics of these two forms of the companies:

	Limited liability company (Sp. z o.o.)	Limited liability company (S.A.)
Public or private	always a private company	may be a private or a public company
Trading of shares on the stock exchange	shares never traded on the stock exchange	shares of a public company may be listed and traded on the stock exchange
Number of founders	1 or more; the sole founder cannot be a limited liability company (Sp. z o.o.) having only one shareholder.	
Nature of founders	legal or natural persons as well as entities not having legal personality	
Legal personality	legal personality is acquired after entry into the register of business entities of the National Court Register	
Purpose	any legal activity unless expressly excluded by statute	any legal activity
Minimum share capital; minimum nominal value of each share	PLN 5,000 - share capital; PLN 50 - nominal value of one share	PLN 100,000 - share capital; 1 grosz (PLN 0.01) - nominal value of one share
Supplementary or reserve capital requirements	no obligation to create any	obligation to create supplementary capital according to art. 396 of the CCC

<p>Civil liability of the Management Board towards third persons for the company's obligations</p>	<p>Secondary and joint and several liability of the Management Board's members for company's obligations to third persons. Circumstances excluding this liability:</p> <ol style="list-style-type: none"> 1. submission, in the due time, of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 2. lack of fault in non - submission of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 3. lack of creditor's damage despite non - submission of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings. 	<p>Lack of liability of the Management Board's members for company's obligations.</p>
<p>Management Board's members liability for company's tax obligations</p>	<p>Secondary and joint and several liability of the Management Board's members for company's tax obligations. Circumstances excluding liability for company's tax obligations:</p> <ol style="list-style-type: none"> 1. submission, in the due time, of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 2. lack of fault in non - submission of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 3. indication of the company's asset which is sufficient for the execution of the company's tax obligations to be successful in the greater part. 	<p>Secondary and joint and several liability of the Management Board's members for company's tax obligations. Circumstances excluding liability for company's tax obligations:</p> <ol style="list-style-type: none"> 1. submission, in the due time, of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 2. lack of fault in non - submission of the motion for bankruptcy announcement or initiation of bankruptcy settlement proceedings 3. indication of the company's asset which is sufficient for the execution of the company's tax obligations to be successful in the greater part.

Liability of the shareholders	No personal liability for acts of the company	
Corporate bodies	General Meeting; Management Board (one or more members being a natural person); Audit Commission and/or Supervisory Board, which are optional, except for companies in which the number of shareholders exceeds 25 and the share capital exceeds PLN 500.000	General Meeting, Management Board (one or more members being a natural person), Supervisory Board (at least three members; in case of public companies, the minimum is 5 members)

Partnerships

Partnerships which are: general partnerships, limited partnerships, partnerships limited by shares and professional partnerships, have the following common characteristics:

- Lack of legal personality
Partnerships have no legal personality. However, partnerships are in a position to acquire rights on their own behalf, including ownership of real estate as well as other rights in property, and to enter into contractual obligations, sue and be sued.
- Secondary liability of the partners
A creditor of the partnership may recover the partnership's debts from a partner's personal assets provided that enforcement proceedings against the partnership's assets have proved ineffective. However, this rule does not apply to partnership's obligations, which arose before its entry into the Register of Business Entities, which may be enforced against the partner's personal assets regardless of the result of enforcement against the partnership's assets.
- Lack of compulsory minimum capital
There is no requirement for a minimum capital to establish a partnership, as it does in the case of companies. The exception to this rule is a partnership limited by shares where the minimum share capital shall amount to PLN 50,000.
- Transfer of partners' rights
The rights and obligations of a partner in the partnership are transferable to a third party if it is expressly provided in the partnership articles and if all the other partners agree to.

General partnership (*spółka jawna*, abbr. *sp. j.*) - partners are liable for the partnership's obligations personally, without limit, jointly and severally with the other partners and the partnership. A creditor of the partnership may recover the partnership's debts from a partner's personal assets provided that enforcement proceedings against the partnership's assets have proved ineffective.

Professional partnership (*spółka partnerska*, abbr. *sp. p.*) - may be created only for professions listed in the CCC or other statute e.g. advocates, legal advisers, notaries, doctors, architects, psychologists. In a professional partnership a partner is not liable for obligations that arise from the performance of the professional activity of the partnership by other partners.

Limited partnership (*spółka komandytowa*, abbr. *sp. k.*) - liability of at least one partner (komplementariusz) is unlimited and the liability of at least one other partner (komandytariusz) is limited up to the amount determined in the partnership articles (so-called 'commandite sum'/suma komandytowa).

Partnership limited by shares (*spółka komandytowo-akcyjna*, abbr. *S.K.A.*) - designed for entities which wish to obtain the capital by issuing shares. In this type of partnership, at least one partner has unlimited liability (komplementariusz) and at least one is a shareholder who is not liable for the obligations of the partnership beyond his shareholding.

Branches

A foreign business entity may also conduct a business activity in Poland through branches that are registered in the Register of Business Entities, which is a part of the National Court Register.

Representative offices

A representative office does not conduct a business activity other than marketing activity and promotions for the business entity it represents. The representative office should enter in the Register of Representative Offices of Foreign Business Entities conducted by the Minister of Economy.

III. LIMITATIONS ON THE FREEDOM OF BUSINESS ACTIVITY

As a general rule, the establishment and pursuit of a business activity in Poland is free and open to everyone on an equal-rights basis. Nevertheless, regulations of law impose some limitations on the conduct of a business activity.

Several business activities require permits or are considered as regulated activities pursuit of which should be preceded by fulfilling of specific legal terms and conditions.

Moreover the following business activities require a licence:

- 1) exploration for and identification of hydrocarbon deposits and solid mineral resources constituting mining property, exploration for or identification of underground carbon dioxide storage complex, solid mineral resources' extraction, the underground container-free storage of substances, the underground storage of mining production waste and underground storage of carbon dioxide

- 2) production and marketing of explosives, weapons and ammunition as well as products and technologies for the army and/or the police purposes,
- 3) production, transformation, storage, transmission, distribution and marketing of fuels and energy,
- 4) carbon dioxide's transmission with the aim of its underground storage
- 5) provision of protection and security services for individuals and property,
- 6) broadcasting of radio and television programmes, with the exception of programmes broadcasted exclusively in a teleinformatics system, which are not broadcasted through terrestrial, satellite or cable networks
- 7) air transport,
- 8) operation of casino game.

A business entity intending to start a business activity in a field subject to obtaining a licence may apply for a promise to issue such a licence ("*promesa*"). As a general rule, during the validity of such promise, granting of a licence for the performance of the business activity specified in the promise may not be refused.

The licence authority may withdraw a licence or modify its scope in certain circumstances identified in the statute.

IV. ACQUISITION OF REAL ESTATE BY FOREIGNERS

The acquisition of real estate by foreigners is regulated by the Act of 24 March 1920 on the Purchase of Real Estate by Foreigners (Journal of Laws No. 167/04, Item. 1758) and regulations under that Act.

Acquisition of real estate by foreigners in Poland requires obtaining of an authorisation from the Minister of Internal Affairs and is subject to the Minister of National Defence having no objections thereto. In the case of agricultural real estate, the acquisition is moreover subject to the Minister of Agriculture having no objections.

Requirement for an authorisation applies to: (1) natural persons not having Polish nationality, (2) legal persons not having their registered office in Poland, (3) partnerships of persons indicated in point (1) and (2) having their registered office outside Poland and established under the laws of a foreign country, (4) legal persons and commercial partnerships having their registered office in Poland, controlled directly or indirectly by foreigners described in points (1), (2) and (3).

As a rule, an authorisation is also needed when a foreigner wishes to take over or acquire shares in a company having its registered office in Poland and which company is the owner or perpetual usufructory of real estate in Poland, if as a result of such acquisition of shares, the company will be controlled by foreigners or if the company is already controlled by foreigners, but the shares are acquired by a foreigner not being an existing shareholder of the company.

However, foreigners being citizens or business entities of member states of the EEA or the Swiss Confederacy do not need any authorisation for acquiring real estates in

Poland except for the acquisition of agricultural land and forests, within twelve years from the date of Poland's accession to the EU (so from 1st May 2004). Nevertheless, this limitation shall not apply to nationals of a country being a member of the EEA or the Swiss Confederacy who, for at least three years continuously, personally carried on an agricultural activity on the land leased on a basis of a lease agreement with certified date and who have been legal resident in Poland during the same period. In some parts of Poland (mainly western Poland), the required period of residence and lease is extended to seven years.

However the citizens or business entities from EEA or Swiss Confederacy can acquire or subscribe without any limitation for shares in companies with registered office in Poland being the owners or perpetual usufructors of the real estate in Poland including agricultural lands and/or forests.

V. EMPLOYMENT OF FOREIGN NATIONALS

Work Permit

As a rule, work permit is required for foreigners who wish to work in Poland, with the following exceptions:

No work permit is required in particular i.a. for foreigners:

- 1) who possess a status of refugee granted by the Republic of Poland
- 2) who were granted the complementary protection in the Republic of Poland
- 3) who possess a permanent residence permit in the Republic of Poland
- 4) who possess a EU long – term resident permit in the Republic of Poland
- 5) who possess a residence permit due to humanitarian reasons
- 6) who possess a tolerated residence permit in the Republic of Poland
- 7) who benefit from the temporary protection in the Republic of Poland
- 8) who are citizens of member states of European Union
- 9) who are citizens of member states of EEA, but not belonging to EU
- 10) who are citizens of countries not being members of the EEA, but entitled to benefit from the liberty of free movement of persons the basis of conventions concluded by those countries with the European Community and its members (ex. Swiss Confederacy)
- 11) who are members of families of foreigners mentioned above in points 8-10 or are descendants of such foreigner's spouse at the age of maximum 21 years or are such foreigner's or his/her spouse's dependant or are ascendants of such foreigner or his/her spouse who are their dependant
- 12) who possess temporary residence permit in the Republic of Poland – on conditions determined in that permit.

Citizens of countries not being member states of European Union (citizens of the Republic of Armenia, Belarus, the Republic of Georgia, the Republic of Moldova, the Russian Federation or Ukraine) are allowed to work in Poland without a work permit for

6 months within 12 following months on the basis of employer's statement registered in the Employment Agency.

VI. TAXES AND EXPENSES RELATED TO THE PURSUIT OF A BUSINESS ACTIVITY IN POLAND

Taxes

Three major taxes, which have the greatest impact on business activity in Poland are personal income tax (PIT), corporate income tax (CIT) and value added tax (VAT).

Personal income tax (PIT)

Natural persons residing in Poland are subject to taxation on their entire income regardless of foreign or Polish source of the income (**unlimited tax liability**). Natural persons not residing in Poland are subject to taxation only on the income derived within Poland (limited tax liability) as the income from ex.:

- a) work performed in Poland on the basis of service contracts, employment contracts, tolling contract and cooperative employment contracts regardless of where the remuneration is paid,
- b) activities carried out personally in Poland regardless of where the remuneration is paid
- c) a business activity performed in Poland,
- d) real property located in Poland including sale of this real property.

Personal income tax is a progressive one and presented in the tables hereinafter:

PIT for 2015

Taxable income in PLN		Tax
over	below	
	85.528	18 % of the taxable income less PLN 556.02 *
85.528		PLN 14,839.02 + 32 % of surplus over PLN 85.528

* 556.02 – corresponds to tax exempt income.

Sole traders or partners being natural persons of the partnership have the option to be taxed at a flat tax rate of 19%.

Corporate income tax (CIT) – 19%

Companies (legal entities) having its registered office in Poland are subject to CIT. This tax is paid by legal entities, including limited liability companies and partnerships limited by shares. It has to be mentioned that also non-residents performing business activity in Poland through permanent establishment are subject to taxation. Criteria, on basis of which performing of business activities of non-residents (legal entities) in

Poland may be treated as having an establishment in Poland is defined in Polish corporate income tax regulations and relevant international conventions on avoiding double taxation.

Dividends

The tax on dividends amounts to a fixed rate of 19%. Limited liability companies with registered offices in the member states of the EEA or the Swiss Confederacy are exempt from this tax, if they fulfil certain conditions.

In case of the entities, including the limited liability companies, which are not exempt from the CIT, the international conventions on avoiding double taxation may apply.

Partnerships

Partnerships do not pay corporate income tax (with exception of partnership limited by shares, which is subject to CIT). The partners pay tax on income resulting from participation in a partnership. Partners may choose to be taxed at the fixed rate of 19%. Partnerships are VAT payers.

Value added tax (hereinafter called VAT)

The basic tax rate until 31st December 2016 is 23% (after that date it should be determined again as 22%, unless relevant statutory provisions change). However, the VAT Act provides exceptions in which preferential 5%, 8% or 0% rates shall apply.

Some other taxes and charges

Excise duty	<p>The Excise duty is regulated by the Act of 6 December 2008 (The Act on Excise Duty). Excise duty rate vary depending on the product subject to excise duty.</p> <p>In accordance with the Act currently applicable rate of excise duty for certain products is:</p> <ul style="list-style-type: none"> - motor gasoline – 1,540 PLN/1,000 litres - diesel fuel – 1,171 PLN/1,000 litres - liquefied gas used for internal combustion engines: <ul style="list-style-type: none"> – 670 PLN/1,000 kg - bio – components constituting independent fuel – 1,171 PLN/ 1,000 litres - electricity - 20 PLN / 1 MWh - ethyl alcohol – 5,704 PLN/1 hectolitre 100% vol., - cigarettes – 206,76 PLN per 1,000 pieces and 31,41% of the maximum retail price.
Real estate tax	<p>The following real estate is subject to real estate tax:</p> <ul style="list-style-type: none"> - lands - buildings - buildings or their parts, related to business activity

	The tax rate is determined by local authorities. The due real estate tax is product of the tax rate and the real estate's surface.
PCC (tax on civil law transactions)	Applicable tax rates depend on the type or object of transaction, ex.: <ul style="list-style-type: none"> - sale of real estate or movables – 2% of market value of the real estate or movables - sale of other property rights– 1% of market value of the property right (eg. shares) - loan agreement – 2% of loan value - articles of partnership/ memorandum of association – 0,5% of the share capital value or of the partnership contributions' value
Health insurance and social security insurance (ZUS)	Compulsory contributions for social security insurance: <ul style="list-style-type: none"> • retirement – 19.52%* (9.76% is incurred by the employer and 9.76% is incurred by the employee) • pension – 8%* (6.5% is incurred by the employer and 1.5% is incurred by the employee) • illness – 2.45% (incurred by the employee) • accident – from 0.67 to 3.86 % (according to the type of the employer's activity) (incurred by the employer) • Labour Fund – 2.45% (incurred by the employer) • Employee Guaranteed Benefits Fund – 0.10% (incurred by the employer) • health insurance – 9% (incurred by the employee)

* The annual basis for calculation of contributions for retirement and pension insurance during the calendar year may not exceed the amount being equivalent to thirty times the average monthly salary anticipated in the national economy for the said calendar year as determined by Polish Government. Such amount is published in the Polish Official Journal "Monitor Polski". In 2015, the maximum yearly basis for calculation of contributions amounts to PLN **118.770**.

VII. INVESTMENT INCENTIVES IN POLAND

Special Economic Zones (hereinafter called SEZ)

Special Economic Zones are areas of Polish territory where the business activity can be conducted on concessional terms. The issue is regulated by the Act on Special Economic Zones of 20th October 1994 (Journal of Laws No. 42/07, Item 274,). At present, there are 14 SEZs in Poland. A business entity may conduct business activity in the SEZ upon a

receipt of a permit, which is granted, withdrawn or amended by the Minister of the Economy. The Minister of the Economy consults with the administrator governing the SEZ before such grant, withdrawal or amendment. Business entities who conduct their business activity in the SEZ may temporarily benefit from PIT or CIT and real estate taxes exemption.

Further information can be found on the Ministry of Economy's website:

<http://www.mg.gov.pl> in the tab: „Wspieranie przedsiębiorczości” – Wsparcie finansowe i inwestycje – Specjalne strefy ekonomiczne

Regional help

Business entities may apply for the regional help on conditions specified in the regulation of the Council of Ministers of 30th June 2014 concerning establishment of the regional help map (Journal of Law from 1st July 2014). Depending on the voivodeship, the share of the regional help in covering costs qualified for this help of maximum 50%. This share can be increased for the medium enterprises by 10% and for the small ones by 20%. Moreover, business entities may also apply for exemption from the real estate taxes and the means of transport taxes on conditions specified in the regulation of the Council of Ministers of 9th January 2015 concerning conditions of granting the exemptions from the real estate taxes and the means of transport taxes, concerned as a regional investment help, culture and cultural heritage help, sport infrastructure and multifunctional recreational infrastructure help and local infrastructure help (Journal of Law dated 2nd February 2015).

Further information can be found on the Ministry of Infrastructure's website:

<http://www.mir.gov.pl> in the tab: „Fundusze europejskie” – Pomoc publiczna – Regulacje polskie – Programy regionalne

European Union Funds (hereinafter called EU Funds)

EU Funds for 2014-2020 are divided into a few Operating Programs (including but not limited to: Infrastructure and Environment, Intelligent Development, Knowledge, Education, Development, Digital Poland, Eastern Poland and Technical Assistance), to which business entities may apply for financial support.

Further information can be found on the Central Information Point on EU Funds' website:

<http://www.funduszeuropejskie.gov.pl>