

INTRODUCTION

1. Income Taxes in Poland

Corporate Income Tax

All legal entities and other organizations without legal personality (except partnerships) that conduct business activities in Poland are liable to corporate income tax (CIT); in 2004 – at a flat rate of 19%.

Personal Income Tax

Polish personal income tax has three thresholds. The rates on taxable personal income for 2004 are: 19%, 30% and 40%.

Poland has signed double taxation agreements with most countries. Thus, nationals of those countries, coming to work in Poland, may choose which tax system is the more advantageous under the circumstances.

2. What Are Special Economic Zones?

A special economic zone (SEZ) is a designated area within the territory of Poland in which business activities (manufacturing or distribution) can be conducted on special, preferential terms. Currently, there are 14 SEZs in Poland, their aim being to support regional development.

Since 2001, new regulations on SEZs and public aid have been in force. After January 1, 2001, entrepreneurs who have obtained a permit to conduct activities in SEZs have been eligible for income tax exemption, which is regarded as a form of public aid.

3. Tax and Non-tax Reliefs (Incentives) in the SEZs

The following forms of tax relief and other incentives to encourage investment are available in the SEZs:

- Income tax exemption
- Relief in real estate tax (depending on a decision of the local authorities)
- Relief in tax on means of transport (depending on a decision of the local authorities)
- Customs duty reliefs
- Non-tax incentives relating to employment of new employees
- Non-tax incentives related to investment procedures in the SEZs.

4. General Conditions for Investments in the SEZs

4.1. Obligations of Entrepreneurs Operating in the SEZs

In order to benefit from tax incentives, which are a form of regional aid, entrepreneurs have to fulfill obligations resulting from general provisions of the Polish law as well as the obligations set out in the permit.

(a) General Conditions for Receipt of Regional Aid

Respective regulations specify the following conditions for SEZ entrepreneurs to be entitled to benefit from regional aid:

- Investment of a minimum of EUR 100,000;
- Business activities related to that investment conducted for at least 5 years from the date on which the aid was granted;
- The newly created jobs maintained for at least 5 years (regional aid for employment).

The entrepreneur who conducts business activities in a SEZ under a permit and who enjoys tax reliefs should submit regular reports on received public aid to the President of the Office for Competition and Consumer Protection.

If the entrepreneur is a foreign entity, as defined by the Polish law, in order to purchase land in a SEZ he must obtain a permit from the Minister of Interior and Administration.

(b) Permits

The permit for conducting business activities in a SEZ determines the conditions for such activities within the SEZ, including but not limited to those concerning:

- Minimum employment;
- Minimum investment outlays.

The conditions set forth in the permit are important with regard to the entrepreneur's activities in the SEZ and for his tax exemption. The permit constitutes grounds for the entrepreneur to use public aid.

Officially, it is the Minister of Economy who grants the permits (as well as withdrawn or amended). In practice, SEZs' Management Boards are authorized to issue permits to investors. The SEZ Management Board handles all formalities relating to the commencement of business activity as well as issues permits by way of a tender or negotiations following a public invitation.

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The permit defines the scope and, in particular, the type of business activities to be conducted in the SEZ in respect to strictly specified goods or services.

4.2. Business Activities Eligible for Tax Exemption

The income obtained by entrepreneurs from business activities conducted within the SEZs, as defined in the permit, is exempt from Corporate Income Tax (CIT). The right to tax exemption is acquired by virtue of law.

The amount of public aid granted in the form of the said tax exemption cannot exceed the admissible amount of regional aid, taking into account the provisions on public aid.

The amount of income exempt from taxation is calculated as the amount of the aid divided by the respective income tax rate (the CIT rate in the case of entrepreneurs, pursuant to the CIT regulations), applicable on the permit issuance date.

4.3. Business Activities Not Eligible for Tax Exemption

Entrepreneurs can also conduct business activities in the zones without a permit. The incomes earned on the activities not covered by a permit are not eligible for tax exemption and are taxed in accordance with the general taxation rules.

4.4. Indirect Investment

Investment in the SEZs may be of indirect nature, e.g. it may be exercised through a purchase of shares in a company that conducts activities in a SEZ or by a merger of entities. Indirect investments or changes in the ownership do not require another permit to operate in the SEZ. Mergers are also supported by the Commercial Companies Code, which provides for succession of permits issued after January 1, 2001.

5. Income Tax Exemption

Starting with 2001, entrepreneurs who have obtained a permit to conduct business activities in the SEZs, upon meeting all the conditions stipulated, have been eligible for income tax exemption. Income tax exemption related to income from activities conducted in the SEZs under a permit is considered to be regional aid granted under the Act on SEZs.

The Value of Admissible Public Aid

The admissible value of the aid cannot exceed the maximum intensity of aid for a given region of Poland, as stipulated in the public aid regulations. The intensity indicates the allowable share of regional aid in the costs (investment expenditure) that qualify the investor for being covered by such aid.

In general, the intensity of aid allowed on the majority of Poland's territory is 50%, except for:

- Kraków (a part of the Kraków SEZ located in Kraków), Wrocław and the Gdańsk-Sopot-Gdynia Agglomeration: 40%
- Warsaw and Poznań: 30%.

The intensity of 50% means that, when investing in the zones, entrepreneurs may obtain aid in an amount not exceeding 50% of all eligible costs (investment expenditure). For small and medium enterprises¹, as defined by the Business Activity Act, the index is bigger by 15 percentage points (i.e. 65% and 55% respectively).

Forms of Regional Aid

SEZ-based enterprises can take advantage of the following forms of regional aid:

- Regional aid to support new investment projects (hereinafter referred to as: regional aid for investment projects)
- Regional aid for creation of new jobs (hereinafter referred to as: regional aid for employment).

Regional Aid for Investment Projects

The amount of regional aid for new investment projects depends on the amount, nature and structure of investment expenditure of a given enterprise. To determine the amount of regional aid for investment projects it is necessary to establish the level of qualifying costs on the basis of investment expenditure of a given enterprise.

¹ **Small enterprise** – employing less than 50 people, net revenue in the preceding financial year did not exceed EUR 7 million or the total balance sheet assets did not exceed EUR 5 billion.

Medium-size enterprise – employing between 50 and 250 people, net revenue in the preceding financial year did not exceed EUR 40 million or the total balance sheet assets did not exceed EUR 27 billion.

The qualifying costs include the following types of expenditure:

- Purchase of land
- Expenditure on buildings and structures
- Expenditure on equipping the facilities with tangible assets (machinery and devices, tools and instruments, equipment for office work, technical infrastructure).

The qualifying costs may also include expenditure on the purchase of intangible assets, within the limits stipulated in respective regulations.

Example:

An entrepreneur plans to set up an enterprise in a SEZ with the intensity index of 50% and will obtain the permit in 2004. The total cost of the investment project will be USD 1,000,000, comprising expenditure on:

- | | |
|---|-------------|
| - Purchase of land: | USD 20,000 |
| - Buildings and structures: | USD 300,000 |
| - Fixtures and fittings for new facilities: | USD 680,000 |

The total amount of investment expenditure of USD 1,000,000 will be included in the qualifying costs and will constitute the basis for assessing the available public aid (tax exemption). Taking into consideration that the entrepreneur will locate the investment project in an area with the intensity index of 50%, he will be eligible for regional aid up to the amount of USD 500,000 (50% x USD 1,000,000), in the form of tax exemption. The amount of tax-exempt income is calculated as the amount of aid divided by the CIT rate. In this case, the amount of tax-exempt income will be about USD 2,631,579 (USD 500,000 / 19%).

Regional Aid for Employment

The amount of regional aid allocated to job creation is calculated on the basis of two-years' costs of labour of newly employed staff borne by the entrepreneur, which consist of gross payroll costs and all mandatory charges relating to the employment.

Example:

An entrepreneur plans to set up an enterprise in a SEZ with the aid intensity index of 50%, in which he plans to hire 100 employees. The entrepreneur will obtain a permit to conduct business activities in the

SEZ in 2004. The cost of labour of the newly employed people over 2 years will amount to USD 1,000,000 (100 x USD 10,000). In this case, the entrepreneur will benefit from regional aid of maximum USD 500,000 (50% x USD 1,000,000) and the amount of tax exempt income will total about USD 2,631,579 (USD 500,000 / 19%).

6. Other SEZ-Related Reliefs (Incentives)

The income tax exemption is the most important incentive available in the SEZs. Nevertheless, the entrepreneurs can also benefit from other incentives, both tax-related and other. Such incentives include, but are not limited to, the following:

Relief in Real Estate Tax

The relief is of general nature (for a group of entrepreneurs meeting certain preconditions). Reliefs are granted by the local authorities, at the commune level, by the Commune Council.

Relief in Tax on means of transport

The relief is of general nature (for a group of entrepreneurs meeting certain preconditions). Reliefs are granted by local authorities, at the commune level, by the Commune Council.

Customs Duty Reliefs

The Polish customs law offers numerous incentives for entrepreneurs, such as:

- Customs duty exemptions;
- Economic customs procedures;
- Operations in duty free areas;
- Facilitated payments;
- Exemption from the obligation to place security for customs duty and tax liabilities.

Non-tax Incentives Related to Employment of New Employees

There are various types of instruments (such as reimbursement of expenditures borne or in the form of a loan) aimed at supporting the hire of new employees.

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Non-tax Incentives Related to Investment Procedures in the SEZs

These include in particular:

- Full preparation of the plot of land for a given investment project;
- Preferential price for the plot of land;
- The accelerated procedure for issuing a permit to purchase real estate (within 1 month);
- Free-of-charge assistance in handling various formalities, actions and obligations.

7. Investment Incentives**General remarks:**

a) It is not the purpose of this report to provide information on all the incentives available. Firstly, because what we describe here are only those instruments of investment or pre-investment nature that could be of importance to potential investors. Secondly, we have limited our presentation to selecting the most important

investment incentives. Thirdly, we have not taken into account purely loan-related instruments (subject to certain exceptions).

- b) Information on individual instruments provided in the table is of basic and rather limited nature, due to the complicated structure of the respective regulations. Therefore, in order to clearly understand the structure, as well as the rules and conditions of a specific instrument, you are strongly advised to consult respective regulations.
- c) Available investment incentives and facilities listed below have to be consistent with the regulations on public aid for entrepreneurs. It is possible to combine various forms of public aid, but the total value of tax exemptions, grants and other types of public aid provided to an investor may not exceed the amount of admissible public aid, as defined by regulations on public aid.
- d) The report presents the current legal status, as of December 2003.

Table 1.

No.	Type of instrument	Maximum amount of support	Relevant authority (institution)
<i>Tax related incentives</i>			
1.	1.Exemptions from income tax (CIT or PIT) generated from business activity conducted within the Special Economic Zones	- 50% of investment outlays, or - 50% of two-years' labour costs of newly employed workers Exception: Kraków Technology Park SEZ, where the threshold is set at 40% In the case of the SMEs, the maximum levels of support are bigger by additional 15 percentage points.	Management Board of the Special Economic Zone
2.	Real estate tax - possibility of lowering the tax rate or complete exemption	-	Commune Council (Rada Gminy)
3.	Tax on means of transport - possibility of lowering the tax rate or complete exemption	-	

No.	Type of instrument	Maximum amount of support	Relevant authority (institution)
<i>Financial support for investment provided by the state budget</i>			
4.	Investment grants	Up to 50% of the maximum level of public aid allocated to the given area (generally up to 25% of investment outlays; in Kraków, Wrocław, Gdańsk, Gdynia and Sopot, the limit may not exceed 20%, whereas in Warsaw and Poznań – 15% of investment outlays)	Ministry of Economy, Labour and Social Policy
5.	Employment grants	Up to EUR 4,000 for every job created, but no more than 50% of two-years' labour costs of newly employed workers	
6.	Training grants	Up to EUR 1,150 per one employee	
7.	Grants for infrastructure development provided to the commune (gmina) for upgrading infrastructure related to the new investment	Up to 50% of the investment outlays	Ministry of Economy, Labour and Social Policy
8.	Reimbursement of employee training costs	Up to 50% of costs, but no more than up to the amount of average remuneration per one person	Head of the Powiat (starosta)
9.	Reimbursement of the social insurance contributions	Up to the value of triple minimum remuneration	
10.	Loans for employers to create new jobs	Up to the level of twenty-fold the average remuneration	
11.	Refund of certain costs relate to employment of designated graduates	Up to 12 months, or 18 months in the case the reimbursement concerns alternate months	
12.	Refund of a part of certain costs related to employment of designated unemployed persons for intervention works	The maximum of up to 12 months	
<i>Customs duty</i>			
13.	Exemption related to imports of fixed assets contributed in-kind by a foreign investor to a company registered in Poland	-	Customs Office
14.	Exemption related to fixed assets owned by entrepreneurs who have terminated business activities abroad and intend to conduct similar activities within the Polish customs territory	-	
15.	Possibility of using economic customs procedures (inward processing)	-	
16.	Possibility of conducting business activities in duty free zones	-	

DOLNOŚLĄSKIE

Voivodeship capital	Wrocław
Area	19,948 sq. km
Population	2,907,300
- urban	71.4%
Special Economic Zones	Kamienna Góra Legnica Wałbrzych "Invest Park"
International airport	Wrocław Airport

Advantages

- A well-developed network of settlements, high level of urbanization, an efficient metropolis

- Proximity of the Czech Republic and Germany, location in a pan-European transport corridor, foreign co-operation constantly growing
- Well developed, multi-sector economy
- Large educational, scientific, research and cultural potential
- Developed technical and transport infrastructures
- Great number of business initiatives, a dynamic sector of small and medium enterprises, good conditions for development of financial services
- Good opportunities for health service development (both inpatient and climatotherapeutic) as well as tourism and recreation centres development
- Rich natural resources, good conditions for agriculture.

THE KAMIENNA GÓRA SPECIAL ECONOMIC ZONE FOR MEDIUM BUSINESS



The **Kamienna Góra Special Economic Zone for Medium Business** was established for a period up to the year 2017, on grounds of the Act of 20 October 1994 on Special Economic Zones (with later amendments). The Zone is administered by Specjalna Strefa Ekonomiczna Małej Przedsiębiorczości S.A., its registered seat in Kamienna Góra.

The preference and exemption system (public support)

An investor willing to start activities within the Zone areas may expect:

- **Public support amounting to 50% of his investment expenditures** – if the economic activity within the Zone is carried out for at least five years (**65%** in the case of small and medium-sized businesses).
- **Public support by virtue of creating new jobs** that have lasted for at least five years, amounting to **50%** of the overall two-years' labour costs related to the employed staff (**65%** in the case of small and medium-sized businesses).

The minimum amount of investment outlays shall be EUR 100 thousand.

The pre-condition of the public support is obtaining a licence for business operations within the Zone, issued by the Zone Authority.

The licence determines the subject matter and the conditions of business operations within the Zone.

Location

The zone is located in southwestern part of Poland, within the boundaries of Dolnośląskie Voivodeship. Wrocław, the regional capital, with a population of 700,000, is a major economic, scientific and cultural centre. The Zone is located close to the national borders with Germany and the Czech Republic, in the vicinity of the A-4 and A-3 motorways.

Air links are provided through the airport in Wrocław, Prague (Czech Republic) and Dresden (Germany). A well-developed railroad transport network ensures accessibility of the Zone areas.



Area

The Zone is dispersed in character. It consists of three subzones, with a total area of 241.20 ha, including: