



COMPANY FORMATION IN POLAND

MAIN FORMS OF COMPANY/BUSINESS IN POLAND

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

1. Capital Companies

- Limited liability company
- Joint stock company

1.1. Limited liability company

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

1.2. Joint stock company

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

2. Partnerships in Poland

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

Commercial partnerships are as follows:

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

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

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

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

SPECIFIC TAX CONCERNS RELATED TO ESTABLISHING A COMPANY

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



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

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

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

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

LEGAL ISSUES RELATED TO ESTABLISHING A COMPANY

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

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

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

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

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

CULTURAL CONCERNS RELATED TO ESTABLISHING A COMPANY

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

OTHER COUNTRY-SPECIFIC ISSUES RELATED TO ESTABLISHING A COMPANY

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

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