

Tax administration in Poland lies in the hands of two kinds of authorities:

- governmental ones (corporate income tax (CIT), personal income tax (PIT), value added tax (VAT), excise duty, civil transactions tax)
- local governmental ones (real estate tax, vehicle tax).

Tax administration consists of two instances, i.e. decision made by the authority of the first instance may be challenged to the second instance authority.

The tax authorities also include:

- the Head of National Revenue Administration whose competences include matters related to tax avoidance, including advance safeguarding tax rulings, and the conclusion of advance pricing agreements,
- the Director of the National Revenue Information System responsible for issuing individual advance tax rulings, and
- the Minister of Finance responsible for issuing general advance tax rulings.

Special tax offices for big taxpayers

There are special tax offices in Poland (20 of them) dedicated specifically for so-called big taxpayers, i.e.:

- entities that have generated an annual income of at least EUR 5 million in the previous year;
- entities controlled directly or indirectly by a non-resident, or where a non-resident has a minimum of 5% of the votes at the meeting of shareholders or at a general meeting;
- entities that as residents participate directly or indirectly in the management of companies located abroad or control thereof or has a share in their capital;
- entities that as residents concurrently participate directly or indirectly in the management of a domestic entity and a foreign entity, or control or have at the same time a share in the capital of such entities;
- capital tax groups, banks and insurance entities;
- branches or rep offices of the foreign entities.

Relations with the tax authorities

As a rule, the relations with tax authorities are of a written form. All the correspondence shall be delivered (both to an entity and to the authorities) either personally or via the Polish Post. To meet a deadline given for any activity (i.e. submitting an application, lodging an appeal etc.) it is required that the documents are either delivered within this deadline to the given authority personally or sent via the Polish Post Office. The deadline shall also be considered to

have been met, if prior to its lapse, the letter is sent to the post office of the operator providing universal postal service in another Member State of the European Union.

Any documents sent via courier shall be sent sufficiently early to be delivered to the tax authorities within a deadline.

The official language is Polish and therefore all correspondence, contacts, applications, appeals, complaints must be prepared in Polish. As a consequence all the documents submitted to the tax authorities in foreign language shall be accompanied by their translation.

Tax proceedings in Poland

The tax amount shall be determined either in the tax return submitted by a taxpayer or in a decision issued by the tax authority. The terms of payment are given in the law.

A taxpayer that is dissatisfied with the first instance decision may submit an appeal to the second instance.

As a rule, an appeal shall suspend execution of a decision, but it shall not stop charging penalty interest on tax arrears.

The final decision issued by the second instance authority which is unfavourable for an entity may be subject to a complaint to the District Administrative Court. The proceedings before administrative courts are also governed by a dual instance system.

Advance tax rulings

There are two types of advance tax rulings in the Polish tax system. General advance tax rulings - addressed to all taxpayers - are issued by the Minister of Finance.

Individual advance tax rulings are issued by the Director of National Revenue Information System.

An application to obtain an individual advance tax ruling might be submitted both by any entity that requires information about the tax consequences of its activities (at present and in the future) and shareholders, potential investors or a foreign entity that intend to open a representative office in Poland.

An individual advance tax ruling may relate both to past and future transactions, however, the scope of safeguarding granted by obtaining a ruling differs in each of the above-mentioned situation.

Should the ruling refer to future transaction (i.e. tax implications of the transaction take place after the ruling is delivered), the taxpayer shall benefit from full safeguarding, i.e. it shall not be obliged to pay any tax arrears. Should the ruling relate to a past transaction, tax arrears must be paid.

An unfavourable individual advance tax ruling might be challenged to the District Administrative Court and subsequently to the court of the second instance.

The application for tax binding ruling shall be subject to fee of 40 PLN per question.

Tax evasion and advance safeguarding tax rulings

The general anti-avoidance clause (GAAR) is effective in Poland. Pursuant to the provisions thereof, any transaction performed primarily in order to achieve a tax advantage, in defiance in given circumstances of the object and purpose of a tax act, shall not result in a tax advantage if the manner of taxpayer's acting was artificial. The provisions on the clause shall not apply if the tax advantage is lower than PLN 100,000.

An entrepreneur that wants to protect itself against the possibility of general anti-avoidance clause being applied against it may apply for the so-called advance safeguarding tax ruling. The refusal to issue it and the safeguarding tax ruling the entrepreneur disagrees with may be appealed against to the administrative court.

Singing a tax return by a proxy

Tax returns may signed by taxpayers (tax remitters) as well as by theirs proxies. By granting the power of attorney the taxpayer is exempted from signing the tax return.

A power of attorney to sign tax returns must be granted by each individual that would be responsible for signing the given tax return.

The power of attorney should be sent to a relevant tax office and should be granted separately for each kind of a tax return.

On-line tax returns

Most tax returns must be obligatorily filed online.

Electronic filing requires possession of electronic signature.

The Polish tax system distinguishes 12 types of taxes, including:

Nine direct taxes:

- corporate income tax (CIT),
- personal income tax (PIT),
- tax on civil law transactions,
- real estate tax,
- tax on means of transport,
- inheritance and donations tax,
- agricultural tax,
- forestry tax,
- tax on dogs

Three indirect taxes:

- tax on goods and services (VAT),
- excise duty,
- game tax.

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