

POLISH TAX SYSTEM

Business Opportunities and Challenges

redakcja naukowa
Włodzimierz Nykiel, Michał Wilk

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Abbreviations

APA	advance pricing agreements
ATA	Agricultural Tax Act
B2B	Business to Business
B2C	Business to Consumer
CC	Civil Code
CFC	Controlled Foreign Corporation
CITA	Corporate Income Tax Act
COMECON	Council of Mutual Economic Assistance
DTA	Double Taxation Agreement
EBRD	European Bank for Reconstruction and Development
ECJ	European Court of Justice
ETA	Excise Tax Act
EU	European Union
FTA	Forestry Tax Act
GAAR	General Anti-Avoidance Rule
GDP	gross domestic product
GTA	General Tax Act
IGTA	Inheritance and Gift Tax Act
LPBAC	Law on proceedings before administrative courts
LTDA	Local Taxes and Duties Act
MCAA	Multilateral Competent Authority Agreement
NSA	Supreme Administrative Court
NTI	Bureau of National Tax Information

OECD	Organization for Economic Cooperation and Development
OJ	Official Journal
PE	Permanent Establishment
PITA	Personal Income Tax Act
TCLT	Tax on civil law transactions
TEC	Treaty Establishing European Community
TFEU	Treaty on the Functioning of the European Union
TK	Constitutional Court
UN	United Nations
VAT	value added tax
VATA	Value Added Tax Act (on goods and services)
VAT Directive	Directive 2006/112/EC
WSA	Voivodeship (provincial) Administrative Court

Introduction

Joining the European Union in 2004 has influenced the shape of contemporary Poland to great extent. Positive impact, which the EU has exerted on the Polish economy, national security, tackling inequalities and legal system, cannot be overestimated. Thanks to structural and systemic opportunities, which came with concluding the Europe Agreement on 16 December 1991, and due to hard work the difficult and complex process of political and economic transformation from a communist country to a modern free market economy subject to constitutional order has turned out to be a great success of Poland. It has to be underlined that such a success cannot be obscured by recent attempts to undermine the fundamentals of the rule of law.

The aim of this book is to show business opportunities and challenges stemming from the shape and the construction of the Polish tax system. It goes without saying that taxes are one of the factors, which are taken into account when calculating the profitability and reasonability of various investments. Foreign investments are no exception to that rule. Furthermore, it has to be noted that the analysis of a given tax system cannot be only limited to law reading. It should also take other elements into account – tax law application by tax authorities, practical level of taxpayers’ protection as well as general attitude towards taxpayers.

Our intention was to present those elements of the Polish tax system (the formula of the book did not allow us, obviously, to show the whole of that system with all the details) which, on the one hand, give rise to opportunities for the business and to challenges on the other.

The first chapter gives a brief overview of an economic, legal and political context in which Polish tax law has been shaped throughout recent years (Anna Nykiel-Mateo). The second chapter is dedicated to main features of the Polish tax system (Włodzimierz Nykiel). The third chapter aims at confronting Polish law with the EU constitutional law and showing the problems, which Poland faced in the process of adopting its legislation to the EU law and EU principles (Michał Wilk). General tax law regulations have been analyzed and assessed in the fourth chapter (Ziemowit Kukulski, Małgorzata Sęk, Michał Wilk). The fifth and the sixth chapters are devoted to consumption taxes: excise duties and VAT, respectively (Małgorzata Sęk). Tax law regulations on personal income tax and corporate income tax have been analyzed in the seventh chapter (Adam Mariański). An overview of other business-related taxes has been drafted in the eighth chapter (Ziemowit Kukulski, Małgorzata Sęk, Michał Wilk). Last but not least, the ninth chapter gives a detailed view on the network of Polish double tax treaties and shows trends in their development.

The book is addressed to entrepreneurs and tax advisors as well as to academics and tax policy makers.

Editors

Poland – Law and Economy

1. Introductory remarks

With a population of about 38 million people² and a gross domestic product (GDP) of EUR 427.737 billion (2015)³ Polish economy is the largest in Central Europe. Germany, the UK and the Czech Republic are the country's main export partners. Its main import partners are Germany, Russia and China.⁴

The territory of Poland is 312,679 square kilometres large making it the 9th largest in Europe. It borders with Germany to the west, the Czech Republic and Slovakia to the south, Ukraine and Belarus to the east and, to the north, Lithuania and the Russian exclave of Kaliningrad. It has a long coast on the Baltic Sea.

Poland's location at the very heart of Europe implies numerous economic advantages, but historically it was not always fortunate: the most comprehensive history of Poland written in English by Norman Davies is called *God's Playground*⁵ to reflect the country's turbulent history.

¹ Dr Anna Nykiel-Mateo works at the European Commission, Directorate-General for Taxation and Customs Union. The views expressed in this article are the author's alone and should not be attributed to her employer.

² Which in 2015 constituted 7.5% of the total EU population. See http://europa.eu/about-eu/countries/member-countries/poland/index_en.htm, accessed on 19.1.2016.

³ *Ibid*; see also <http://www.worldbank.org/en/country/poland/overview>, accessed on 16.2.2016.

⁴ http://europa.eu/about-eu/countries/member-countries/poland/index_en.htm, accessed on 19.1.2016.

⁵ N. Davies, *God's Playground*, OUP Oxford 2005.

BIBLIOTEKA PRZEGLĄDU PODATKOWEGO

This book is a unique tax law publication on fundamental elements of Polish tax system. It concentrates on key issues of contemporary tax law in Poland in particular on the assessment of legal institutions which either stand out comparing to other legal systems or require changes and reforms.

The authors, giving the general image of Polish tax law, also indicate the regulations which are or potentially may be the source of tax risk for foreign business as well as on provisions which may mitigate that risk.

The book is addressed to multinational companies, tax managers, tax practitioners, judges, academics and tax administration.

”The authors of *The Polish Tax System. Business Opportunities and Challenges* undertook the task of presenting an overview of the current regulations governing the taxation in Poland. As a result the book provides a comprehensive outline of personal and corporate income taxes, VAT, the local taxes as well as the international aspects of taxation associated with double tax treaties signed by Poland. The Polish tax regulations are presented in the context of some interesting recent economic indicators and EU law currently in force. This is a ‘must-have’ compendium for academics and students as well as investors and their advisors who either contemplate entering Poland or deepen their business presence in the country.”

Dr Zbigniew Wójcik



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