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Webinar

Crowe Poland | TGC Corporate Lawyers





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Agenda

- 1** Brief description of the business forms

- 2** Taxation in Poland

- 3** IP Box



- 4** R&D tax relief

- 5** „Estonian CIT”

- 6** Employment of foreigners in Poland

Brief description of the business forms

Business forms

	Limited Liability Company	Branch office
Purpose	Any business purpose allowed by law. Usually used by small and medium size business.	Conducting business activity only within the scope of activity of the foreign entrepreneur. Usually used by foreign companies who do not wish to establish their corporate presence in Poland.
Legal personality		

Business forms

	Limited Liability Company	Branch office
Founders	One or more individuals or legal persons or organisational unit without legal personality which was granted a legal capacity on the basis of a specified act (for example partnerships).	Foreign entrepreneur.
Minimal capital	5.000 PLN (~900 GBP)	N/A

Business forms

	Limited Liability Company	Branch office
Governing bodies of company	<ul style="list-style-type: none">• Shareholders meeting.• Management board (consisting of at least of one person).• Supervisory board (in general not obligatory).• May also be represented by a commercial proxy.	<p>Representation by representative of the branch Management board of the foreign entrepreneur.</p>
Accountancy	<p>Full accounting in Polish.</p>	<ul style="list-style-type: none">• Separate accounting books in Polish.• Provisions on accountancy tax ledgers required by domestic tax law.

Liability



Limited Liability Company

- Company is liable for its debts and obligations with its whole property without any limitations.
- The shareholders are not liable for the company's obligations, they bear a risk up to the value of shares taken up.
- Directors bear personal liability for the company debts and obligations if they do not comply with their legal obligations.



Branch office

- Full liability of a foreign entrepreneur.
- A person representing a foreign entrepreneur in the branch office is not responsible for the liabilities of that branch or the foreign entrepreneur himself.
- The branch representative does not bear liability for tax liabilities of the branch or the foreign entrepreneur himself.

Liability



Limited Liability Company

The following is generally required for the creation of a limited liability company:

- conclusion of the articles of association
- contributions to share capital to be made by shareholders (cash or in kind)
- management board
- supervisory board (if applicable only)
- registration in the National Court Register (Krajowy Rejestr Sądowy).



Branch office

The following is required for the creation of a branch office:

- resolution on establishment of the branch office in Poland
- appointment of the representative of the branch office
- registration in the National Court Register

LLC registration via S-24 system and PRS court portal



S-24

To register the company via S-24 internet system you need to have active account on s-24 system confirmed by electronic signature or trusted profile e-puap and also:

- sign articles of association (limited scope),
- pay contributions to share capital which need to be made by shareholders (cash only),
- appoint management board,
- supervisory board (if applicable only),
- register in the National Court Register (Krajowy Rejestr Sądowy).

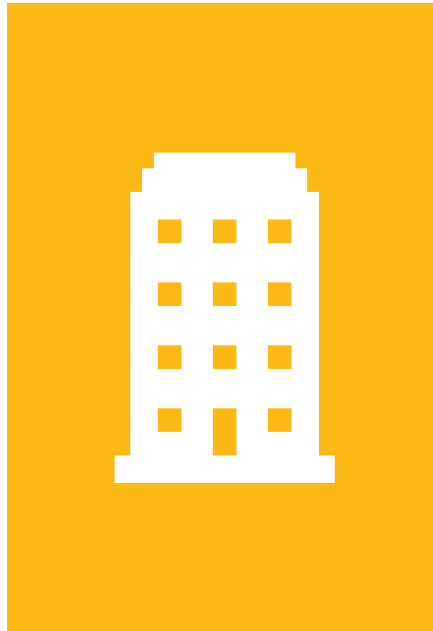


PRS

The following is required for the creation of LLC:

- sign articles of association in front of the notary (broad scope i.e. privilege votig rights, increase of share capital without change of AoA),
- contributions to share capital to be made by shareholders (cash or in kind),
- appointment of management board,
- supervisory board (if applicable only),
- registration in the National Court Register (Krajowy Rejestr Sądowy).

Limited Liability Company



Limited Liability Company

To save time and trouble ready-made shelf companies are available for purchase within a couple of days.

Approval of financial statements



Shareholders need to approve financial statements on general meeting of shareholders **within 6 months after the end of financial year**. All management board members must sign financial statements and management board reports with electronic signatures.

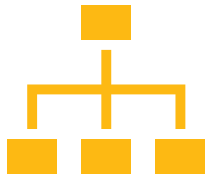


Next step is **submission of approved documents** to court via RDF (free of charge) or s-24 platform.

Electronic signature – why is it required?

- Since 2018 all financial statements need to be signed and prepared electronically.
- Signatures like DocuSign are not accepted, other signatures obtained in different countries cause technical problems so we recommend to use one of electronic signature trusted providers from Poland.
- Ultimate Beneficial Owner notification must be signed also by means of electronic signature or trusted e-puap profile.

AML documentation



Company ownership and management structure including identifying the beneficial owner of the company.



For each member of the management board and the beneficial owner - notarised copies of the ID cards or passports citizenship declaration and politically exposed persons declaration.

UBO registration



The Polish Anti-Money Laundering and Anti-Terrorist Financing Act introduced the **Central Ultimate Beneficial Owner Register**.

Companies and partnerships are obliged to provide information to the UBO Register on their Ultimate Beneficial Owners **within 7 days** from the moment of entering the company into the National Court Register.

In the case of already provided information, the **update to the UBO Register** should be provided **within 7 days** from the change of information.

Opening of a bank account

LLC should have active bank account when:

- the party of the transaction from which the payment results is another entrepreneur,
- the one-off value of the transaction, regardless of the number of payments resulting from it, exceeds the equivalent of PLN 15,000, with transactions in foreign currencies being converted into PLN at the average exchange rate of foreign currencies announced by the National Bank of Poland on the last business day preceding the day of the transaction.



In order to open bank account the bank conducts KYC procedure and verifies Ultimate Beneficial Owner and Client's group structure. There is also possibility to open bank account remotely without presence in Poland.

Taxation in Poland

Main tax burdens for business entities in Poland are:

TAX burdens

- Corporate income tax
- Value added tax
- Withholding tax
- Tax on civil law transactions
- Real estate tax

Corporate Income Tax in Poland

19% Standard CIT rate.

9% CIT rate that may apply to companies with maximum revenue up to **EUR 2.000.000** in the previous and in the given tax year.

5% Income tax rate that applies to profits from selected intellectual property rights, which are subject to legal protection (licenses, patents, etc.).

5 years Maximum period of carrying forward losses. Tax losses may only be set off against future income derived from the same income source.

up to 50% Loss that may be utilized in a given year.

up to PLN 5 000 000 In one year. Remaining part in the 5 year period (up to 50% of the loss in one year).

Corporate Income Tax in Poland

20%

Standard withholding tax rate applicable to interests and royalties, management fees.

19%

Tax rate applying to dividends disbursed from Poland.

80+

Countries which have double taxation treaties with Poland.



Under certain conditions reduced rates of WHT or tax exemptions may be claimed.

Poland has implemented the parent-subsiary Directive.

Value Added Tax in Poland

23%

VAT rate that applies to most goods and services.



Polish VAT system is based on EU VAT directives.



Most services provided to non-Polish companies are not subject to VAT in Poland.

Tax on Civil Law Transaction in Poland

RATE

2%

sale of real
property

1%

sale of shares

0.5%

loan agreement

0.5%

partnership
agreements and
articles of
association

Personal Income Tax in Poland

19%

Business income of a sole trader or derived from a partnership - individuals can opt for a flat **19%** PIT rate



Polish tax residents → taxable on their worldwide income.
Non-residents → taxable on Polish source incomes.



PIT advance payments are made by the 20th day of the following month. The annual tax return should be filed by April 30th.

Personal Income Tax in Poland

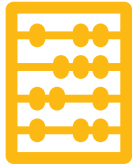
Standard PIT rate is progressive:



Individuals earning profits exceeding **PLN 1.000.000** (approx. **EUR 250 000**) per year, are required to pay an additional **4%** of tax on the surplus of income over **PLN 1.000.000**

IP Box

IP Box



A preferential 5% tax rate applies to qualified income from qualifying intellectual property rights.



The rights must be **created, developed or improved** by the taxpayer as part of **R&D activity**.



The amount of qualified income corresponds to the amount calculated as the income obtained from the qualifying IP right multiplied by the nexus ratio implemented following the recommendations of BEPS Action 5.

The qualifying intellectual property rights include:

- Right to an invention (patent).
- Additional protection rights for invention.
- Protection right for utility model.
- Right from registration of industrial designs.
- Right from registration of topographies of integrated circuits.
- Patent for medical products or plant protection products.
- Right from registration of medical products or authorized veterinary products.
- Right from registration of varieties of plants and animal breeds.
- Protected rights to software.



These IP rights must be protected under the local regulations or ratified international agreements.

The following kinds of income (loss) are regarded as income from qualifying IP rights:

- fees/royalties received for the qualified IP right under a license agreement
- sale of a qualifying IP right
- qualified IP right embedded in the sale price of products or services
- compensation related to a qualifying IP right



The provisions may also be applied to an expectancy of obtaining a qualified IP right.

R&D tax relief

The qualifying intellectual property rights include:



CIT and PIT taxpayers carrying R&D activities are entitled to additional deduction of eligible costs incurred for R&D activities from the tax base.



The R&D activity is a creative activity involving **research or development**, undertaken in a **systematic manner to increase knowledge resources and to use knowledge resources to create new applications**.



The R&D tax relief allows to deduct **100% or 200%** of eligible costs incurred.

The qualifying intellectual property rights include:

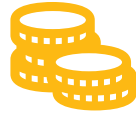
- **salaries** and social security contributions (employment contracts) in proportion in which time spent by an employee on R&D activity corresponds to the overall working time
- **salaries** and social security contributions of co-workers conducting R&D activities based on contracts of mandate/ contracts for a specific task in proportion in which time spent by an employee on R&D activity corresponds to the overall working time
- **costs** of purchasing materials and raw materials directly related to the R&D activity
- **costs** of purchasing specialist R&D equipment other than fixed assets
- **costs** of expert opinions, advisory services or equivalent services, purchase of research results from scientific units
- **costs** of obtaining and maintaining patents, protection rights for utility models, industrial design rights
- **depreciation** write-offs on fixed assets and intangibles used in R&D activities (excluding cars and real estate)

„Estonian CIT”

Estonian CIT - basic assumptions



So-called Estonian CIT is a solution inspired by Estonian regulations, under which **the moment of tax payment is postponed until the profit is distributed to shareholders.**



The company, despite generating income, does not pay CIT until the profit is transferred to its shareholders (e.g. but not only in the form of a dividend).



The subject of taxation is not income (as in the case of "ordinary" CIT), but distribution of profits and other activities related to transferring funds from the company.



Estonian CIT rates are higher than regular CIT rates (15/25% instead of 9/19%) but it allows to reduce tax on dividends paid to shareholders (deductions may have different amounts). As a consequence, the final amount of tax payable (by the company and shareholder in total) may be lower than in the case of applying standard (non-Estonian) rules.

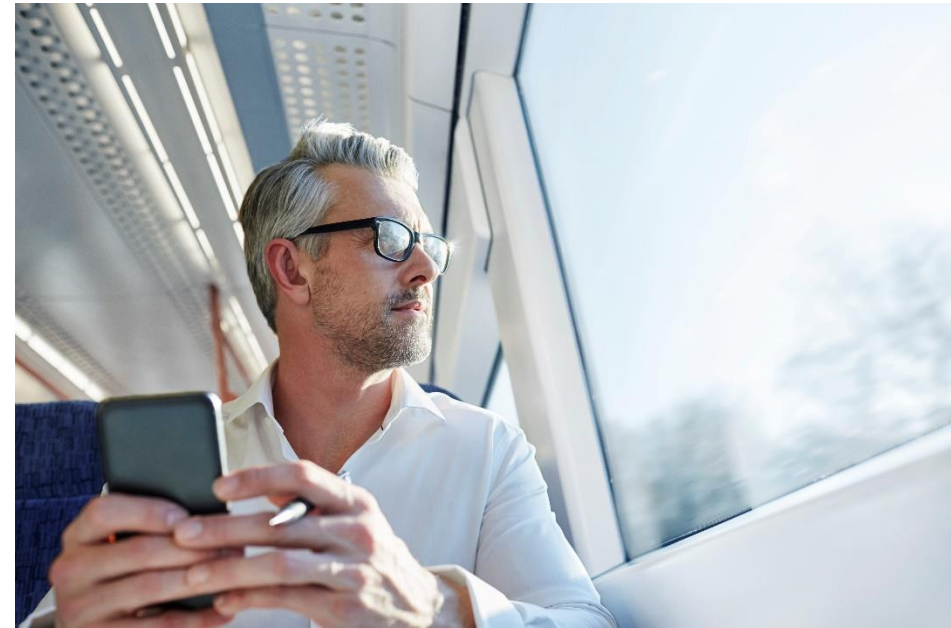
Employment of foreigners in Poland

selected information on basic immigration issues
according to new regulations

Legal stay in Poland

According to the special act, the Ukrainian citizens and their spouses (regardless of their nationality) who came to Poland **directly** from Ukraine may legalize their stay if they intend to stay in Poland. Their stay will be legal for 18 months i.e. starting from February 24, 2022 until August 24, 2023.

Leaving Poland for more than 1 month deprives the Ukrainian of the right to stay legally in Poland.



The right to work in Poland



According to the special act, the Ukrainian citizens, who legally reside in Poland may legally work in Poland.



It will only be necessary for an employer to notify the local labour office about entrusting the work to the Ukrainian citizen within 14 days from the date of starting work.

The right to start business in Poland

The Ukrainians, who legally reside in Poland, have the right to start doing business in Poland on the same terms as Polish citizens. One of the conditions for starting a business is to obtain a PESEL number in advance.



Temporary residence permit

- ✓ The Ukrainians, who legally reside in Poland on the basis of the special act adopted on 12 March 2022, may apply for a temporary residence permit.
- ✓ Persons from Ukraine who receive such a permit will be entitled to work in Poland without the need to apply for a work permit.
- ✓ The application for temporary residence permit will have to be submitted within specified time limit - no earlier than November 24, 2022 and no later than August 24, 2023.
- ✓ This temporary residence permit is granted once for a period of 3 years.

How can we help?

How can we help?

Setting up a business in Poland by a company from Ukraine - the scope of support

- Assistance in registration of an employee from Ukraine
- Advisory on choosing an optimal form of conducting business activity
- Advisory on choosing the optimal form of taxation
- Opening a company or a branch
- Registration for tax purposes
- Opening a bank account
- Establishment of an electronic signature
- Registration in the Central Register of Beneficial Owners (CRBR)

Starting a business in Poland - scope of support:

- Employment of employees - preparation of employment contracts / cooperation contracts
- Registration of the company and employees for social insurance
- Accounting services
- Tax advisory
- HR & Payroll services
- Corporate secretarial services
- Compliance
- GDPR compliance





Thank you!

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