



Poland

Introduction

A person's liability for tax in Poland is determined by residence status for taxation purposes and the source of income derived by the individual. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. In certain cases, income tax is levied using a flat rate tax at 19 or 20 percent.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Poland workdays. Other Polish-sourced income is also taxable. The application of relevant double tax treaties should be considered.

Income tax

Liability for income tax

An individual's income tax liability in Poland is determined by the residency status of that individual.

According to Polish personal income tax regulations, an individual having a place of residence in Poland will be subject to an unlimited tax liability in Poland (tax resident). Under such circumstances, the individual's worldwide income will be subject to taxation in Poland regardless of the source of income.

Alternatively, an individual who does not have a place of residence in Poland will be subject to a limited tax liability in Poland. In this case, only income from Polish sources will be subject to Polish taxation.

Polish tax regulations provide for a definition of an individual having a place of residence in Poland as one or both of the following:

- An individual whose center of vital interests (center of economic or personal interests) is in Poland
- An individual who spends more than 183 days in a calendar year in Poland.

These rules, however, should be applied taking into consideration the provisions of double tax treaties concluded by Poland.

Generally, extended business travelers are likely to be considered nonresidents of Poland for tax purposes unless they spend more than 183 days in a year in Poland or move their center of vital interests to Poland.

Tax trigger points

There is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Poland. Exemption from tax, however, may result from the relevant double tax treaty if certain criteria are met. The individual becomes liable to taxation as soon as such exemption ceases to apply.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income or personal service contracts, other Polish-sourced income, and gains from Polish assets (such as interest, real estate income, etc).

Tax rates

Employment income is subject to taxation in Poland at progressive tax rates ranging from 18 percent to 32 percent. Capital gains are subject to a flat rate tax of 19 percent. Some specific types of income (personal service contracts, director's fees) received by nonresidents are subject to 20 percent flat rate tax.

Social security

Liability for social security

Liability for Polish social insurance may be determined based on general EU provisions (place of performance of work) or based on Polish provisions if a local contract is concluded. The Polish social security system consists of three pillars to which payments are made. The first and second are obligatory; the third is not. Contributions are split between the employee and the employer. Generally, social security applies to income derived under a Polish employment contract and/or Polish service contracts, business activities, etc., depending on the situation. As a rule, it does not apply to foreign-sourced income, unless EU regulations are applicable.

The Polish social security scheme for employees is compulsory; it cannot be avoided by implementing special private agreements, which would be null and void by law. Certain types of contracts are not subject to Polish social insurance.

Extended business travelers employed by an employer located in an EU/EEA member state or Switzerland, in most cases, can remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Poland, regardless of their country of citizenship. This exemption is based on the EU/EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended businesses travelers, in some cases, may stay in their home countries' social security systems and obtain exemptions from paying Polish social security based on the provisions of a social security treaties signed between their home countries and Poland.

Compliance obligations

Employee compliance obligations

Individuals subject to Polish tax are required to make monthly tax advance payments (18 percent). These advance payments are payable by the 20th of the following month. An annual tax declaration should be submitted by April 30 of the following year. The payment of the tax is transferred to the tax office bank account on the same date. Tax returns must be filed by nonresidents who derive any Polish-sourced income.

Employer reporting and withholding requirements

Foreign employers are not responsible for Polish tax advance payments. Withholdings from Polish employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual concludes a local contract, the employer is subject to PAYE withholding requirements. The tax withheld by the employer must be paid to the tax office by the 20th of the month following the month in which the tax was withheld. In the case of foreign employment contracts, the individual is personally responsible for tax payments; the foreign employer is not involved.

Other

Work permit/visa requirements

Travelers from most countries can enter Poland without a visa. Citizens of states with which Poland has signed agreements relating to visa-free travel may remain within the territory of Poland (without performing work) for periods of up to three months. However, citizens of certain countries still require a visa in order to enter Poland. In general, work permits are required for foreign individuals. As a rule, employees of EU countries are exempt from the work permit requirement. The procedure for obtaining this document requires involvement of the Polish company where work is performed.

Double taxation treaties

Poland has a broad network of bilateral tax treaties. Polish domestic tax regulations also provide methods to avoid double taxation of income taxed outside Poland.

Permanent establishment implications

There is the potential risk that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Poland's basic rate of value-added tax (VAT) is 23 percent. Certain transactions are subject to lower rates of 8 percent, 5 percent, or 0 percent, and some transactions are exempt from VAT.

Taxes are also imposed on certain civil law transactions such as loans, the creation of a company, etc.

Transfer pricing

Poland has a transfer pricing regime.

Local data privacy requirements

Poland has data privacy laws, and it is recommended that the employer obtain the employee's consent in order to transfer data outside Poland. The consent should state the specific data to be transferred, the reason for transfer, and the party to whom the information will be transferred. An electronic signature or acceptance from the employee is sufficient for this consent requirement.

Exchange control

Poland does not restrict the flow of Polish or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering. Amounts in cash up to 10,000 euros (EUR) (or the equivalent in foreign currencies) may be taken out of the country without specific permits; any amounts may be transferred out of the country, provided appropriate documentation exists such as contracts, invoices, etc.

Some limitations and restrictions are applicable, especially in relation to transactions with entities from states that are not part of the EU, EEA, OECD, or states with which Poland has not concluded bilateral investment treaties.

Non deductible costs for assignees

Non deductible costs for assignees include contributions paid by an employer to pension funds outside the European Union. In addition social insurance payments already deducted in other countries are non deductible in Poland.

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