

POLAND

Name of the firm

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Intertax

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AT A GLANCE

Name of the tax

Value Added Tax

Localname

Podatek od towarow i uslug

Date introduced

4 July 1993

Date of membership in EU

1 May 2004

Administered by

Ministry of Finance (www.mf.gov.pl)

VAT rates

Standard

23%

Reduced

5% and 8%

Other

Exempt with and without credit supplies

VAT Number format

PL 8730001393

VAT return periods

Monthly or quarterly

Thresholds registration

EUR 37,500

Recovery of VAT by non-established

Businesses

Yes

HISTORY OF VAT

VAT was introduced in July 1993. Poland joined the EU VAT regime in 2004 and is part of the EU single market economy. VAT Directives issued by the EU take precedent over the Polish VAT legislation. It may happen that practice of the tax authorities fail to follow the Directives.

SCOPE OF VAT

Of key importance to taxation is objective scope of taxation, which determines chargeable events. Each entity which professionally carries out the below stated activities:

- supply of goods (meant as transfer of the right to dispose of tangible property as owner) effected for consideration,
- supply of services for consideration; supply of services is meant as any transaction which does not constitute a supply of goods,
- export of goods,
- importation of goods,
- intra-Community supply of goods,
- intra-Community acquisition of goods,

is subject to taxation.

REGISTRATION

Entities that wish to conduct activities subject to VAT in Poland must file a registration form before the date of the first taxable activity. Taxpayers who intend to conduct intra-Community transactions must be EU VAT registered.

Taxpayers whose annual sales do not exceed PLN 150 000 (EUR 37500) are exempt from VAT. However, they may choose to pay tax on their business upon prior notification to the director of the tax office.

In order to register for VAT purposes in Poland, entities without a registered office, permanent place of residence or place of business in the European Union must appoint a tax representative. Tax representatives are responsible for the tax liabilities of the taxpayers they represent.

Group registrations are not possible.

VAT RATES

The standard VAT rate is 23 percent. The standard rate applies to all goods and services for which lower rates are not defined.

There is a reduced rate of 8 percent for certain goods and services, including among others:

- supply of houses and apartments and construction services related thereto classified as social building,

- catering and restaurant services excluding the supply of alcoholic and/or non-alcoholic beverages,
- pharmaceuticals and medical equipment,
- processed food i.e. sugar, soups, sauces,
- passenger transport,
- newspapers and magazines (unless more than 67 percent of content is advertisements),
- communal services,
- certain agricultural related services.

In addition there is a reduced rate of 5 percent for certain goods and services, including among others:

- milk and dairy products,
- rawmeat,
- poultry,
- fish.

The list of zero rate supplies includes among others:

- export of goods,
- intra-Community supply of goods
- international transport services,
- supplies with respect to aircrafts and sea vessels.

The Polish tax provisions provide specific exemptions from VAT for certain goods and services including among others:

- financial services,
- services relating to education, housing and public post,
- lease of residential dwellings,
- services of healthcare,
- social services.

PLACE OF SUPPLY RULES

Supply of Services

The place of supply of services for the provision of services to a taxable person is the place where the recipient being a taxpayer is established.

When the services are provided to a fixed establishment of the taxable person who is in a different place than the office, the place of supply of these services is a fixed place of business.

If the recipient does not have a seat or permanent place of business, the place of supply of services is the place where he has his permanent address or usually resides.

Exceptions:

- transport of passengers,
- real estate services,
- services in field of culture, art, sport and science,
- catering services,
- the hiring of means of transport,
- telecommunications services,
- intangible services.

Supply of Goods

Generally in the case of supply of goods the principle of territoriality shall apply.

Where goods are not dispatched or transported, the place of supply shall be deemed to be the place where the goods are located at the time when the supply takes place.

Where goods are dispatched or transported by the supplier, or by the customer, or by a third person, the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer begins.

TIME OF SUPPLY RULES

The time of supply rules fix the time at which a supply is treated as taking place for VAT purposes. In practice most supplies are subject to an actual tax point created by the issue of a VAT invoice or receipt of a payment (or a combination of both).

Exceptions:

- IC acquisition – 15th day of a following month if an invoice has not been issued,
- IC supplies - 15th day of a following month if an invoice has not been issued.

EXEMPTIONS

Exempt with credit means that the taxable person may recover any VAT on expenditure in furtherance of his economic activity. The items listed by the Act that fall under this category are:

- export of goods, despatched or transported to a destination outside the European Community,

- processing of moveable goods intended for re-export outside the community.

There are also exempt without credit meaning that any input tax incurred in the process of providing such a supply cannot be recovered e.g.:

- financial services,
- services relating to education, housing and public post,
- lease of residential dwellings,
- services of healthcare,
- social services.

RECOVERY OF INPUT VAT

The 8th Directive lays down the detailed rules for the refund of value added tax (VAT), to taxable persons not established in the Member State of refund. This Directive shall not apply to:

- amounts of VAT which, according to the legislation of the Member State of refund, have been incorrectly invoiced;
- amounts of VAT which have been invoiced in respect of supplies of goods.

To obtain a refund of VAT in the Member State of refund, the taxable person not established in the Member State of refund shall address an electronic refund application to that Member State and submit it to the Member State in which he is established via the electronic portal set up by that Member State.

13th Directive - each Member State shall refund to any taxable person not established in the territory of the Community, subject to the conditions set out below, any value added tax charged in respect of services rendered or moveable property supplied to him in the territory or the country by other taxable persons or charged in respect of the importation of goods into the country, in so far as such goods and services are used for the purposes of the transaction.

The fiscal representative is allowed to sign the claim and to receive the reimbursement from the tax authorities under the terms of a power of attorney.

Frequency of submitting VAT refunds 8th Directive and 13th Directive:

- periodic claims and an annual claim,
- periods no shorter than 3 months and no longer than a year. The amount of a claim cannot be lower than equivalent in PLN of:
 - €400 if the claim is for the period shorter than a tax year,
 - €50 if the claim is for a tax year or shorter than 3 months of that year.

Deadline for submitting the VAT refund request: September 30th of the following year.

Documents which have to be provided to the tax authorities:

- an original recent certificate of VAT registration or tax of a similar nature in the country of establishment;
- originals invoices and custom documents, (the amount of the requested VAT refund has to result from the invoices and custom documents)

Kind of expenses for which the VAT is refundable: All expenses that are related to the conducted business activity. No deductible are: Personal/passenger car fuel, gastronomy, hotel.

COMPLIANCE OBLIGATIONS

Invoices should include:

- date of issue,
- sequential number uniquely identifying the invoice,
- supplier's and purchaser's names and addresses,
- supplier's and Purchaser's VAT identification number (NIP),
- description (type) of goods supplied or services rendered,
- size (volume) and quantity of goods supplied or scope of services rendered,
- net unit price of the good or the service,
- net value of goods or services supplied,
- VAT rates,
- total net value of goods or services with a breakdown into values attributable to particular VAT rates, exemption or out of scope of Polish VAT,
- total amount of VAT with a breakdown into values attributable to particular VAT rates,
- total due amount together with VAT due amount,
- recalculation of the amount of VAT in the foreign currency into PLN.

In addition, in some cases (e.g. tax exemption, transactions subject to reverse-charge, intra-EU transactions, new means of transportation supply) additional elements may be required. VAT returns should be filed monthly or quarterly together with tax payments to the 25th of the following month and quarter for all the companies. There is an obligation to file a "NIL" declaration when there are no transactions. A claim for the VAT refund can be done each month. The delay of reimbursement is about from 2 to 6 months for the claim. No requirement for a bank guarantee. For each day of delay interest shall be charged. VAT returns should be kept for 5 years.

SPECIAL CASES

Ad hoc rules apply to dealers in second hand goods, collectors' items and antiques and supplies, flat-rate farmers, tour operators, gold investment.

RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES

The tax payers has the right to:

- file an appeal against a decision,
- make an adjustment of VAT return,
- apply for tax refund,
- protection to personal data.

The rights and powers of the VAT authorities:

- checking the timeliness of VAT returns and tax payments,
- verifications of the documents (invoices etc.),
- audit.

EU DECLARATIONS

Registered persons making intra-Community acquisitions or dispatches as well as purchases of services (other than exempt or 0 percent) for which the purchaser is entitled to account for VAT according to art. 28b of the VAT Act are obliged to submit EU Sales/Purchases Lists. EU Sales/Purchases List must be submitted to the tax office on the monthly basis before the 15th day of the month following the month in which the tax point arose. The declaration may be submitted on a quarterly basis. EU Sales/Purchases List submitted electronically must be submitted to the tax office on the monthly basis before the 25th day of the month following the month in which the tax point arose.

VAT registered businesses with a value of dispatches or arrivals to or from other EU Member States, which exceed a certain threshold (the basic level for the year 2013 is PLN 1,100,000 both for acquisitions and dispatches) per calendar year must complete supplementary returns each month. More detailed Intrastat returns are required after exceeding threshold of PLN 42,000,000 in case of acquisitions and PLN 76,000,000 for dispatches. Intrastat returns must be submitted to the customs authorities on a monthly basis. The deadline for submitting Intrastat returns is the 10th day of the month following the reported month. Penalty for non-submission of Intrastat return amounts to PLN 3,000 for each settlement period. Penalty is imposed after receiving 3 notifications.