



Taxation of expatriates

Business breakfast

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Agenda

1. Tax residency in Poland
2. Legal structures available
3. Arrival – stay - departure
4. Income from various sources
5. Social security

Tax Residency in Poland

Tax resident vs non – resident

- Resident – obliged to declare in Poland worldwide income
- Non – resident – obliged to declare and tax in Poland only income from sources located on the territory of Poland (income from work performed in Poland is regarded as from Polish source regardless of where paid from)
- Non – residents may benefit from preferential 20% taxation of certain types of income (management contract, board fees)

Definition of tax residency

- Person having centre of personal or economic interest on the territory of Poland
- Person spending in Poland more than 183 days in a calendar year

Double tax treaties

Tax residency certificate

Legal structures available

Structure	Personal Income Tax	Compliance	Social Security	Comments
Polish Employment Contract	progressive	Employer & Individual	Yes, unless certificate of coverage	Not tax efficient but very safe and sometimes required by internal employer's regulations
Foreign Employment Contract	progressive	Only Individual	Yes, unless certificate of coverage or non – EU employer	Not tax efficient, potential social security savings, additional compliance on the Individual
Management Contract	Progressive /Flat 20% for non - residents	Company & Individual	Yes, unless certificate of coverage	Tax efficient for non – residents, recent court ruling - office/car/phone should be regarded as taxable benefits
Board Membership	Progressive /Flat 20% for non - residents	Company & Individual	No	Tax efficient, no social security may be used only for board members
Business Activity	Progressive /19% linear	Only Individual	Yes, very limited compared to employment	19% linear taxation very attractive, however limited application for executives performing managerial duties

Arrival – stay - departure

What needs to be considered?

Arrival:

- Do I become tax resident in Poland? If yes, as of which date?
- What other income do I have – rental, capital gains, investments?
- Will I get any income for prior years (last year's bonus, equity plans, etc.)?

Stay:

- What is my role in the organization during stay in Poland?
- Has my situation changed during the course of my stay in Poland?
- Am I in Poland temporarily or am I going to stay longer / independently?

Departure:

- Will I get any income for work in Poland after my departure?
- Am I leaving any assets in Poland (investments, real estate)?
- When do I cease my Polish tax residency?

Income from various sources

Real Estate

Polish rules:

- Purchase – no tax
- Sale – no tax if sold after full 5 calendar years from the date of purchase or if sale proceeds used to acquire other real estate (residence) located on the territory of EU, Switzerland and EEA within 2 full calendar years from the date of sale
- Otherwise – 19% taxation on difference between sale proceeds and acquisition costs
- Rental income – generally taxed at progressive rates with possibility to apply 8,5% flat rate

Real estate located outside of Poland:

- Same rules for residents with application of double tax treaties – generally country where real estate is located does have primary taxation rights
- Non – residents – not subject to tax in Poland

Income from various sources

Equity Plans:

- Grant – no tax
- Vesting period – no tax
- Exercise / release – generally taxable event, but:
 - Possibility of deferral until sale if certain conditions met
 - Necessity of proper allocation of income in case of rewards granted prior to arrival to Poland or shares acquired after departure
- Sale – capital gains taxable for Polish tax residents

Income from various sources

Capital gains – sale of shares

- Separate source of income taxed at 19% linear rate regardless of the level of income
- Generally non – residents are not subject to tax in Poland on capital gains located outside of Poland
- Compliance – onerous as each transaction must be reconciled separately with proper exchange rates

Income from various sources

Investment fund units/ Interest / dividends

Polish:

- Tax withheld by banks / companies with no further action required from Individuals
- In case of non – residents – potential obligation to declare in the country of residency
- Non – residents – possibility of limiting taxation to double tax treaty levels – tax residency certificate required

Foreign:

- Non – residents – not obliged to declare in Poland
- Residents – obligation to calculate the tax and declare in the annual tax return. Possibility of using foreign tax credits – limited by the double tax treaty

Social security in Poland

- Number of various contributions in Polish social security system split between employer and employee
- Pension and disability contributions capped at PLN 111 390 per annum
- Business activity – minimum contributions are set at approximately PLN 1030 per month and majority of entrepreneurs pay just the minimum
- Given the limits for contributions, expected pension would also be set at limited level

Example:

37 years old male

Starts to contribute in 2013 for 30 years

Monthly salary of PLN 20 000 - each year – cap is exceeded

Pension in 2043 is the equivalent of PLN 3 600 per month in 2013

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