CHAPTER 6

Taxation System, Development and its Implications

6.1 Taxation System, Development and its Implications

The government of Poland is in the process of reforming the tax system of the country to be in line with the free market economy in lieu of the centrally planned economy. The revised direct and indirect taxes have been introduced and modified in 1992 and 1993 respectively with the emphasize on neutralizing in regard to foreign investment. Direct taxation takes the forms of corporate and personal income taxes and indirect taxation take the forms of value added tax (in lieu of turn over tax), excise tax, customs duties and stamp tax.

6.1.1 Corporate income tax

1. Resident companies

Corporate income tax of the Polish resident companies is imposed on the net profit as shown in the audited profits and loss account and balance sheet after some adjustments as stipulated by the Corporate Income Tax Act. It is levied at the current flat rate of 38% (from 1 January 1997 which reduced from 40% in 1996) and is to be further reduced by 2% each year to reach 32% by the year 2000. Net profits is calculated and based on the successive 12 months period which constitutes a taxable year. Annual tax return must be filed with the Tax Office within two months after the year-end. This is to help boost of economy.[69]

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[69] Price Waterhouse, "Doing Business in Poland", USA, p. 19 and Price Waterhouse, "Corporate Taxes: A Worldwide Summary", USA, p. 519.

Dividends distributed to the shareholders is subject to a withholding tax at the rate of 20% whether or not it is inter-company dividends. This tax is withheld at source by the company that pays dividends. The withholding tax is creditable against the final tax liability of such recipient. This results in no double taxation. It is further provided that if the Polish company receiving the dividends has nil or insufficient other income for offset, such tax credit is carried forward.[70]

With respect to the company that incurs loss from its business operation, such loss can be carried forward to offset against future profits by deducting such loss in three equal parts over the next three years. In the case there is no profits to be offset within any of the three years, such eligible loss deduction will be void. No loss carry backward is allowed.[71]

Polish resident corporations are taxed on the worldwide income basis.[72] In the case it has earned an income from overseas source and it is subject to foreign tax, such foreign tax may be creditable in computation of the Polish tax; provided that the amount of the credit does not exceed the amount of tax calculated under the Polish tax regime.[73]

Group tax consolidation may be possible for a limited company and joint stock company upon getting an agreement with the Tax Office.

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[70] Price Waterhouse, "Doing Business in Poland", USA, pp. 120-121 and Price Waterhouse, "Corporate Taxes: A Worldwide Summary", p. 523.

[71] Ibid., p. 123

[72] Ibid., p. 119

[73] This is according to the OECD tax treaty model.

A branch office of a foreign corporation although is regarded as a resident company (for Polish tax purposes), it is taxed differently. A branch office pays taxes on the basis of **gross "imputed" income** at the following rates:

- 5% for foreign trade income
- 10% for construction income
- 60% for commission income
- 20% for others not specified above

However, if it is proved that the taxable income is over imputed the branch can pay tax on the actual amount but it is determined that the amount as proved cannot be less than the following percentages of the gross income:

- 3% for foreign trade income
- 6% for construction income
- 40% for commission income
- 12% for others not specified above

There is no further tax on the profits transfer back to the head office.

Technical information office and supervisory office are not taxable entities.

2. Non-resident companies

Foreign companies having no business presence in Poland but receive royalty, interest and dividends from the source in Poland will be subject to the withholding tax at the rate of 20% unless otherwise reduced or exempt by the Double Tax Treaty as signed with

relevant countries. Presently Poland has signed the Double Tax Treaty with 56 different countries, including Thailand and to ratify further with other countries. The Double Tax Treaty will be an instrument to attract foreign investors to do business with Poland. It provides solution for double taxation, eliminates and minimizes tax burdens. This will help the achievement of market economy.

Income from cross border sales into Poland is not subject to tax.

6.1.2 Personal income tax

1. Resident of Poland

A natural person who is a resident of Poland or who temporarily stay in Poland for more than 183 days in a taxable year shall be taxable for all income earned on a worldwide basis regardless of the place of payment.[74]

2. Non-resident of Poland and expatriate

A natural person who stays in Poland for less than 183 days in a taxable year or an expatriate who temporarily stay in Poland (although they have stayed in Poland for longer than 183 days in a taxable year) for the purpose to take employment with a foreign small business enterprises, or companies with foreign participation, or in representative offices of foreign corporations and banks, will be taxed only on income derived from work performed in Poland regardless of the place of payment.

[74] Price Waterhouse, "Individual Taxes: A Worldwide Summary", USA, 1995, p. 318 and Price Waterhouse, "Doing Business in Poland", USA, p. 139

6.2 Tax rates

The government of Poland annually announces the tax rates to be enforceable on each taxable year.

The tax rates are collectible on a progressive rates. For 1998, the tax rates are as follows:

Annual Taxable Income (PLN)	Tax (PLN)
Upto 25,252	19%
25,252 to 50,504	4,461.28 + 30% on excess over 25,252
From 50,504	12,036.88 + 40% on excess over 50,504

Personal income tax return must be filed at the latest by April of the year following the taxable year.

6.3 Value added tax

Poland has introduced the value added tax (goods and services tax) to replace the turn-over tax since 5 July 1993. This is part of the reform process to make the country fit in the international free market economy.

VAT imposes on all import, export, sales and service activities of the business operator with a revenues of Zl 1.2 billion per year. It is passed on to the end consumer. The business operator is required to

collect VAT (so-called "output VAT") from its purchaser and to pay VAT (so-called "input VAT") for its purchase. Output VAT and input VAT of the same month will have to be consolidated. The balance of output VAT over the input VAT is VAT payable. The balance of input VAT over the output VAT is carried forward for future month or refundable in cash as the case may be.

VAT aims at neutralizing the indirect tax burden.

6.3.1 VAT exempt business

- The following activities are outside VAT:[75]
- Sale of food and agricultural products
- Communication services (postal activities)
- Household services and community services
- Science and technology development services
- Educational, sports and cultural services and medical services
- Financial and insurance services
- State and political services
- Cinema and television services
- Imported goods which are exempt from customs duties
- Goods imported by diplomats or representative offices
- Sale of used goods or gift

6.3.2 Zero rated VAT

Export of goods or services rendered to foreign customers overseas is subject to zero rated VAT.

[75] Price Waterhouse, "Doing Business in Poland", USA, 1998, p. 149

VAT rates

The general VAT rate is 22%. Preferential rates are 7 and 0%.[76]

6.4 Customs duties

Customs duties range from 0 to 45%, in 5% increments. The basic tariff applies to goods imported from GATT countries. Preferential rates are granted to goods imported from countries with most favored nation status (MFN). Goods imported from certain lesser developed countries are generally granted a zero rate.

The law generally grants exemption of duties for export of goods as a concession to exporters.

The present rates of customs duties are to be gradually reduced according to WTO Agreement (formally GATT), which was ratified by Poland in July 1995.[77]

6.5 Excise tax

Excise tax has been introduced at the same time as VAT implementation in 1993. Excise tax is imposed on importers and producers of certain luxury goods, such as cars, petrol, alcoholic and tobacco. Excise tax ranges from 5 to 25%[78]

[76] Ibid., p. 148
[77] Ibid., p. 153
[78] Ibid., p. 153

6.6 Stamp tax

Stamp tax is normally imposed upon formation of a company, and business entities, sale agreements, loan agreements and visa application.[79]

6.7 Agreement for avoidance of double tax treaties ("Tax Treaty")

Poland has, at the end of 1997, entered into tax treaty which has already been effective with 56 different countries, including Thailand; and there are another 14 tax treaties pending for government ratification to become effective. The tax treaties will help minimizing tax burdens and eliminate double taxation of tax residents of a contracting country in doing business in another contracting country. Poland continually observes the tax treaties more by the reason to attract foreign investors and according to its tax reform into the free trade economy. The enforcement of tax treaty overrides the domestic tax legislation.

6.8 Changes in Tax System

As part of the PACKAGE 2OOO, the tax system in Poland is to be further introduced as comprehensible for a tax payer and as easy to apply, nationally and locally. Such proposed changes will ensure the conditions and requirements on being member to international economic organizations, e.g., World Trade Organization (WTO), Organization of Economic Cooperation and Development (OECD), and the European Union. This will increase the safety of economic turnover and the functioning of households, and on the rationalization of behavior of all economic entities. Furthermore, it will increase the effectiveness of

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[79] Ibid., p. 152

government tax collection and budgetary controls and the prevention of tax leakage.

The new tax changes will set forth tax proceedings, reducing the scope of interpretation in imposing taxes and granting allowances.[80]

6.8.1 Corporate income tax

In the years 1997 - 2000, the rate of (direct) corporate income tax for juristic persons will be gradually reduced in connection with the reduction of the range of applied allowances and exemptions, especially investment allowances. In this context, the following scheme of changes in tax rate is suggested as follows:[81]

Year	Tax Rate
1996	40%
1997	38%
1998	36%
1999	34%
2000	32%

[80] Kolodka W., Grzegorz, "Poland 2000: The New Economic Strategy", Warsaw, 1996, p. 134

[81] Ibid., p. 139

6.8.2 Personal income tax

Starting from 1997, the rates will be reduced to 20%, 30%, and 40% respectively with the preservation of the rule of indexation of the costs of earnings obtained from a work relation or related agreements as well as of an agreed sum reducing the tax. Deductions and allowances will be adjusted to eliminate the abuse and unfair treatment.

Exemption on certain types of income will be implemented:

- from sale of shares of companies or part of assets of an enterprises
- from sale of State bonds
- from amortization of the participation units in trust funds[82]

6.8.3 Import and tariff taxes

From 1997 import tax has been abolished for the purpose of reducing inflation. Investment and supplies imports became cheaper. This has contributed to an increase in the competitiveness of domestic production which is one of the requirements of the adjustment of the Polish economy to the conditions of the liberalized market and to pave way for membership to the OECD and to European Union. Although the government has loss revenues from import taxes, it is treated as an investment incentive in stimulating economic development.

Tariff policy is predominantly determined in accordance with the system implemented in EU, CEFTA, EFTA and WTO. Rates will be gradually reduced to be abolished by the year 2000.

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[82] Ibid., p. 141

6.8.4 Value added tax (VAT)

- The proposed changes are emphasized on the range of VAT in order to comply with the EU rules. The variant rates are to be implemented between 2% to 7% with cancellation of zero rate for sale of goods and services in the country which is contrary to the EU rules, means of agricultural productions, refund of VAT to tourist with tax exempted on unprocessed agricultural goods, and insurance companies which will be in accordance with the solution accepted by the EU.

6.8.5 Local tax

There will be an increasing method to create sources of revenues for budgets of local districts. Real estate taxation on the basis of their assessment value is suggested in the similar manner as applied to local development tax in the countries of the European Union.

Revenues from this new proposed tax will be revenues of local commune budgets and the State budget will not have participation from it.[83]

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[83] Ibid., pp. 136-139