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Relocation to Poland

Guide for Ukrainian Businesses

Dear **Ukrainian Entrepreneur**

Please find below the overview of possibilities of relocation Ukrainian businesses to Poland in connection with the military conflict in Ukraine. Please be informed that the new law regarding the military conflict in Ukraine has been adopted in Poland recently. Please have in mind that the legal regulations are new and there is no established practice of implementation of those regulations. Thus, it is recommended to analyze each particular situation of the relocation of Ukrainian business to Poland separately.

The guide is mainly focused on the most common legal form of the company in Poland i.e. spółka z ograniczoną odpowiedzialnością (limited liability company). Below the considerations of the key tax and legal aspects of the sp. z o.o. there are additional comments in case running business as a sole proprietorship.

Primary focus of the guide is for businesses operating in:



IT-Area (Programmers, Outsourcing Companies, Software Developers)



Consulting (Accountants, Auditors, Lawyers, Business Consultants)



Retail



Construction



Beauty Industry (Beauty Salons, Barbershops etc.)

This Guide is developed together with **LCF Law Group**.

Overview of **key rules to consider**

1.	Corporate matters
1.1.	legal entity in Poland - limited liability company (Polish: spółka z ograniczoną odpowiedzialnością)
	<ul style="list-style-type: none"> • The most common form of legal entity for doing business in Poland and basically preferred option to conduct business activities in considered areas. LLC's constitute more than 80% of all legal entities • As a rule shareholders in such company are not liable with personal estate for the company's liabilities • In principle there are no restrictions for Ukrainians to hold shares in sp. z o.o. or to establish sp. z o.o. (permits may be required in case of participation in existing company which owns real estate) • Establishment: signing the Article of Associations (notary deed or simplified online form) + registering the company in the National Court Register (NCR); In case of online establishment Polish personal number (PESEL) is required; shareholders visible in the NCR; separate register indicating ultimate beneficial owners of a business (UBO) • The minimum share capital: PLN 5,000 and the minimum value of one share: PLN 50 (in principle all shares can be held by one person) • Both cash or in-kind contributions possible (in-kind contributions to be considered in case of available assets or other transferable rights e.g. IP rights); regardless of making contributions in-kind the Polish company may purchase the assets on the basis of another civil law agreement, e.g. purchase agreement • Registered office should be in Poland (to some extent virtual offices are possible), at least annual shareholders meeting should take place in Poland • Majority of formalities (including establishment and annual shareholder meeting may be performed by a proxy) • Fees for setting up a company: notary fee – starting from approx. PLN 200 and above (depends on amount of share capital), court fees and other official fees (up to PLN 1000), tax on civil law transactions (0,5% on the value of share capital), fee for legal assistance approx. PLN 2000-6000 (depends on the agreed scope of work and the complexity of the process); acquisition of ready made (fully registered) companies is possible • timeframe for establishing the company: approx. 0,5-1,5 month • annual maintenance: monthly accounting costs, annual financial statements, monthly payroll services, audit of financial statements (if certain thresholds are met) • Bank accounts in commercial banks in Poland are usually opened within 2 weeks (however, each case is assessed individually and the time may vary, especially UBO issue).
1.2	private entrepreneur registered in Poland (sole proprietorship)
	<p>It is possible for Ukrainians to register as private entrepreneurs based at the same rules as Poles. The legal stay in Poland and obtaining PESEL number (identification number) are only conditions for setting up business activity in Poland. A sole proprietorship should be registered in CEIDG (Centralna Ewidencja i Informacja o Działalności Gospodarczej). It is possible to register a sole proprietorship via Internet (www.biznes.gov.pl/pl). Submitting the application is free of charge. CEIDG will inform the relevant tax office, the Central Statistical Office (Główny Urząd Statystyczny) and the Social Security Institution (Zakład Ubezpieczeń Społecznych). Then, the relevant tax office will issue NIP (tax identification number) and the Central Statistical Office will issue REGON (statistical identification number).</p>
2.	Tax matters
2.1.	spółka z ograniczoną odpowiedzialnością (limited liability company)
	<p>CIT</p> <ul style="list-style-type: none"> • CIT taxpayer – standard rate is 19%; • 9% in case of small entities (gross sales up to EUR 2,000,000); • CIT is paid by Sp. z o.o. itself on its income earned in a given tax year; advance payments for CIT due on monthly basis, • “Estonian CIT” option under which, in simplified terms, LLC is not obliged to pay CIT until the profit (dividend) is paid to its shareholders, • Double taxation: first, the company is obliged to pay CIT on the income earned, and then the shareholders must pay PIT on the dividend paid (at the rate of 19%). <p>VAT</p> <ul style="list-style-type: none"> • The principles of VAT in Poland are based on the EU legislation. • Activities which are subject to VAT: supplies of goods and services within the territory of Poland, export of goods, import of goods, intra-Community supplies of goods and intra-community acquisitions of goods. • VAT registration in Poland is mandatory. However, taxpayers whose annual sales do not exceed PLN 200,000, are generally exempt from registration obligation. In case of intra-community transactions, registration for EU VAT purposes is also obligatory.

- The standard VAT rate in Poland is 23%. There are also reduced rates of 8%, 5% and 0% and VAT exemption.
- The VAT reporting period is generally one month – VAT SAF-T files should be submitted by the 25th day of the month following the VAT reporting period. As a rule, VAT liable is paid to the tax office at the time of filing an appropriate VAT SAF-T file.

2.2. private entrepreneur (sole proprietorship)

PIT

- Individual conducting business activity may, as a rule, be taxed in one of three ways: **on a progressive, flat and lump sum tax on registered revenue:**

	Tax scale (progressive taxation)	Flat rate	Lump sum tax on registered revenue
Tax rate	17% ¹ ; 32% after exceeding the tax threshold (currently PLN 120,000)	19%	from 2% up to 17% depending on the activity
Tax base	net income (i.e. gross income minus costs)	net income (i.e. gross income minus costs)	gross income

- The choice of taxation according to the tax scale allows to take advantage of the tax free amount (PLN 30,000) and the middle class relief (annual income between PLN 68,412 and PLN 133,692)².
- Taxpayers who choose progressive or flat taxation have the option to deduct tax costs from their gross income.
- The lump sum tax on registered revenue may be selected only with respect to the specified types of business activity. For example, the lump sum tax rate is 17% for independent professionals from legal, finance occupations and translators, 15% for advertising, market research and public opinion polling services, 14% for architects and engineers, 12% for IT professionals, 8.5% (or 3%) for catering activities, 5.5% for revenue from the activity of production, construction or transport of goods, 3% for service activities in the field of commerce. A taxpayer who uses this form of taxation is not allowed to include tax-deductible costs from his gross income.
- Individuals conducting business activity are generally required to calculate and pay their own advance tax payments and taxes.

Social security contributions and health insurance

- Generally, individual conducting business activity is obliged to pay:
 - social security contributions in a lump sum, regardless of their actual income.

The basis for calculating social security contributions, and thus the amount of contributions, depends on the forecast average monthly salary for a given year (i.e. calculation basis amounts to 60% of the forecast average monthly salary) currently in the amount of PLN 1,124.23/per month or PLN 1,211.28/per month without sickness insurance contribution).

There is also a relief for starting a business. Individuals conducting business activity do not have to pay social security for the first six months of their business. For the next 24 months, they can pay so-called 'preferential contributions', which are much lower than normal contributions (in the amount of PLN 285.71/per month or PLN 263.59/per month without sickness insurance contribution).

- health insurance contribution, which depends on the form of taxation chosen and equals:
 - progressive taxation - 9% of income,
 - a flat rate tax - 4.9% of income, but not less than 9% of the minimum wage,
 - a lump sum tax on registered revenue - 9% from the following calculation basis:
 - 60% of the average monthly salary (thus c.a. PLN 305/per month) - if annual revenue did not exceed PLN 60,000,

¹ Planned changes – reduction of PIT rate from 17% to 12%.

² Planned changes – elimination of middle class relief.

- average monthly salary (thus c.a. PLN 508/per month) – if annual revenue exceeded PLN 60,000 and did not exceed PLN 300,000,
- 180% of the average monthly salary (thus c.a. PLN 916/per month) - if annual revenue exceeded PLN 300,000.
- In case of progressive taxation and a flat rate tax - the minimum amount of health contribution is PLN 270/month.
- Private entrepreneurs that have employees are liable for payment of PIT **advances** and social security contributions in relation to salaries of employees (please refer to p. 3.2. of this guide for details)

VAT

- The principles of VAT in Poland are based on the EU legislation.
- Activities which are subject to VAT: supplies of goods and services within the territory of Poland, export of goods, import of goods, intra-Community supplies of goods and intra-community acquisitions of goods.
- VAT registration in Poland is mandatory. However, taxpayers whose annual sales do not exceed PLN 200,000, are generally exempt from registration obligation. In case of intra-community transactions, registration for EU VAT purposes is also obligatory.
- The standard VAT rate in Poland is 23%. There are also reduced rates of 8%, 5% and 0% and VAT exemption.
- The VAT reporting period is generally one month – VAT SAF-T files should be submitted by the 25th day of the month following the VAT reporting period. As a rule, VAT liable is paid to the tax office at the time of filing an appropriate VAT SAF-T file.

3. Employment matters

3.1 Legal matters

- Under Polish law, the employment of employees may take place in three basic forms: (a) employment contract for undefined period, (b) employment contract for definite period, (c) employment contract for a trial period.
- In practice common legal basis of provision of work/services are: self-employment (B2B contract) and other forms of civil law contracts (in such case Polish Labor Law is not applicable), however employment contract shall be advised in most cases; preferred form of employment depends on the individual situation of the employee and should be assessed individually.
- Termination of contracts with employees depends on the form of employment and in principle it can be based on termination notice or settlement with employee.
- Employer may be obliged to establish and participate in obligatory employees' pension plans.
- Depending on the number of employees employer may be obliged to establish more detailed internal work regulations (related to a.o. work performance, remuneration, employees representation, whistleblowing).
- Based on the new Polish law in connection with military conflict in Ukraine employment matters are simplified for those Ukrainian who legally stay in Poland. Work permit not always will be required, however it depends on the situation of individual.
- The minimum gross monthly salary to be paid to employee in 2022 constitutes PLN 3,010.

3.2. Tax and social security contributions matters

PIT

- Monthly obligations of employer are calculation and payment of the PIT advances. After the end of the year employer is obligated to issue PIT-11 (annual income statement) and PIT-4R (annual declaration on tax advances on PIT).
- Employees are taxed on progressive taxation – 17%²; 32% after exceeding the tax threshold (currently PLN 120,000). The tax scale allows to take advantage of the tax free amount (PLN 30,000) and the middle class relief (annual income between PLN 68,412 and PLN 133,692)².

Social security contributions

- Monthly obligations of employer are preparation and submission of monthly declarations/reports and calculation and payment of social security contributions.
- The basis for social security contributions is the employee's gross salary.

² Planned changes – reduction of PIT rate from 17% to 12%.

² Planned changes – elimination of middle class relief.

- A portion of social security contribution ~~is~~ due from the employees ~~and~~ is withheld by the employers from their gross salary. **However, the employer does not withhold social security contributions due from employer from the gross salary. Social security contributions in this part are additional burden on the employer (they increase the total cost of employment).**
- Contributions rates are following:

Type of insurance	Contribution employer (%)	Contribution employee (%)
pension insurance 1 (składka emerytalna)	9.76	9.76
pension insurance 2 (składka rentowa)	6.50	1.50
sickness	n/a	2.45
work accident	up to 3.3 the rate is varied and depends on the number of insured persons and the industry in which the employer operates	n/a

- The annual cap for the calculation basis of pension insurance contributions is PLN 177, 660.

4. **Regulatory matters**

- In some cases in order to conduct business in Poland specific concessions, permits from appropriate authorities, entry to the register of regulated activities or professional qualifications are required. Regulations vary and depend on the subject of the business activity. Examples: alcohol, pharmacy, tobacco, job placement related activity.
- In case of primary focus business activities in principle no concessions, permits or the entry to the register of regulated activities are required. However, in case of retail special permits may be required for: retail sale of alcohol, running a generally accessible pharmacy, running a pharmaceutical warehouse, running a pharmacy point, running a pharmaceutical wholesaler of veterinary medical products. Permits are issued after verifying whether the entrepreneur is able and has the technical or organizational capacity to perform a specific economic activity e.g. The entrepreneur must meet the conditions for carrying out this activity specified in the provisions of law. Beauty treatment related activities may be performed in premises meeting sanitary conditions envisaged for particular type of activity. Some consultancy/advisory services require professional qualifications or licenses, in particular services related to professional secrecy or financial services. For further information please see the website of Polish authorities <https://www.biznes.gov.pl/pl/portal/00116>.
- As a rule Ukrainian (and Polish company controlled by Ukrainians) must obtain permission of Minister of Internal Affairs and Administration to purchase real estate in Poland (however there are some exceptions)
- Moreover, in case of some activity (especially IT), special attention to compliance with the GDPR (data protection) provisions is recommended

5. **Immigration matters for personnel**

- Work permits are generally required for foreign individuals who are not EU citizens. However, on the basis of the new Polish law in connection with military conflict in Ukraine, Ukrainian citizens who have been forced to flee the country from February 24, 2022 may take up employment without the additional need for obtaining a work permit. The legal stay in Poland is the condition for taking up work under simplified procedure.
- The provisions on the possibility of bringing the family of Ukrainians who came to Poland have not yet been introduced. Appropriate regulations that will enable this are being prepared. Currently, the family of a Ukrainian citizen who came to Poland has the option of crossing the border according to standard rules.

6. **IP related matters**

Transfer of IP rights and know-how from Ukraine to Poland can be done based on civil law agreements. Additional review of Ukrainian law is required. Transfer of IP rights can be done in exchange for shares as making in-kind contributions to the Polish company or notwithstanding the in-kind contributions based on another civil law agreement concluded with Polish company e.g. IP rights purchase agreement.

Copyright and related rights

- Due diligence of copyright assets to be transferred recommended in respect to legal title, scope and possible limitations imposed on copyrights

Trademark

- Due diligence of transferred rights recommended in respect to territory, goods / services covered
- New trademark applications may be needed covering Poland or more broadly EU

Patents

- Due diligence of transferred patents and designs recommended, in particular in respect to territory, novelty "grace period", priority check
- New patent / design application In Poland or in PCT procedure may be recommended

7. Important contacts

- Immigration service: Office for Foreigners (Polish: Urząd do spraw cudzoziemców) www.gov.pl/web/udsc/urząd-do-spraw-cudzoziemcow
- Social Security Institution (Polish: Zakład Ubezpieczeń Społecznych) www.zus.pl
- Lawyers and accountants – professional self-governing organization of:
Advocates www.nra.pl
Legal advisors www.kirp.pl
Tax advisors www.kidp.pl
Accountants www.skwp.pl
- Real estate agents (for renting a registered office and residence for relocated employees) (Warsaw society of real estate agents: www.wspon.org.pl/)
- Business ombudsman (Polish: Biuro rzecznika Małych i średnich przedsiębiorców) www.rzeczniemsp.gov.pl
- Bank institutions cooperating with Ukrainians - Union of Polish Banks (Polish: Związek Banków Polskich) www.zbp.pl
- Volunteers
Fundacja Ocalenie www.ocalenie.org.pl
Fundacja Ukraina www.fundacjaukraina.eu

8. Contact us

Poland

- **Corporate matters:** ALTO Legal Orczykowski sp.k., www.altoadvisory.pl/uslugi/legal
- **Tax matters:** ALTO Tax Sp. z o.o., www.altoadvisory.pl/uslugi/tax
- **Accounting/ Payroll matters:** ALTO Accounting Sp. z o.o., www.altoadvisory.pl/uslugi/accounting
- **IP matters:** Hasik Rheims & Partners, www.hrp.pl

Ukraine

All tax and legal matters: LCF Law Group – www.lcf.ua