DOING BUSSINESS IN Poland

HLB M2 Audyt

HLB Sarnowski & Wiśniewski

doing business in Poland

Poland – an introduction

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HLB M2Audyt **HLB Sarnowski&Wiśniewski**
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taken on the basis of information in this booklet.

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basic information about Poland

AREA	312.7 thousand km^2
POPULATION	38,115.6 thousand
THE CAPITAL CITY	Warsaw, 1.702 m. citizens
ADMINISTRATIVE DIVISIONS	16 provinces, 314 counties and 2478 communes
THE LEGISLATIVE BRANCH	Lower house (460 MPs), Senate (100 senators)
THE EXECUTIVE BRANCH	The President (the term: 5 years), The Council of Ministers (the term: 4 years)
THE JUDICIARY BRANCH	The Supreme Court, common courts, administrative courts, military courts
TIME ZONE	GMT +1
CURRENCY	Zloty (PLN) = 100 grosz (gr.)
AVERAGE ESTIMATED LIVE SPAN	79.7 for women, 71.0 for men

Source: Central Statistical Office

1.1 The population of Poland

Poland is said to be one of the largest European countries and the total area of over 312 thousand km2 is permanently populated by over 38 million inhabitants. This makes Poland the 34th populous country in the world.

The population structure shows that over 60% of the population live in urban areas. The employment structure is less favourable than the average in the European Union. There are fewer employed persons (60% vs. 66% in EU), whereas there are more blue collar workers (almost 50% compared to the average of 37% in EU). The advantage of the demographic structure consists in larger accessibility of young employees who are baby boomers of the 1980s. Most of these people, who were born during the population explosion, are starting their professional career now.

Generally, Poland offers a young educated workforce. According to statistical data published by Eurostat and OECD, the education level of Polish society is relatively high compared to other European countries. Almost 90 % of the population aged between 25-64 graduate from secondary schools. In comparison with such countries like Spain (50.4%) or France (68.7%), the education level of Polish society seems to be very good. In 2007, about 5.5 million people in Poland held qualifications at higher levels of education compared to 4.7 million in 2005 (one year after Poland's accession to the EU). Almost 2 million people (i.e. over 5% of the population) are students. More than 400 thousand young people graduate from universities and colleges every year. At the higher levels of education, science courses are more popular among men, whereas women opt for liberal arts.

Nearly half of Poles declare that they have a good command of at least one foreign language.

1.2 Location and climate

Poland is situated in the centre of Europe which makes it a very interesting strategic location for investors. It is bordered by 7 countries (Germany, Czech Republic, Slovakia, Belarus, Ukraine, Lithuania and Russia). Thanks to its central location in Europe, Poland has convenient roads, rail and air connections with all other countries in the European Union. Poland is also well prepared for trade with eastern countries neighbouring the EU. Three major Polish harbours located in the southern coast of the Baltic Sea (Szczecin-Świnoujście, Gdynia and Gdańsk) are connected with the most important harbours all over the world.

The climate in Poland varies significantly depending on which of the four seasons prevails. Poland has a moderate climate with both maritime and continental features. The average summer temperature ranges from 16.5°C – 20°C, whereas in winter it ranges from - 6°C – 0°C. The average annual air temperature in Poland ranges from 7 – 9°C.

1.3 Constitution and government

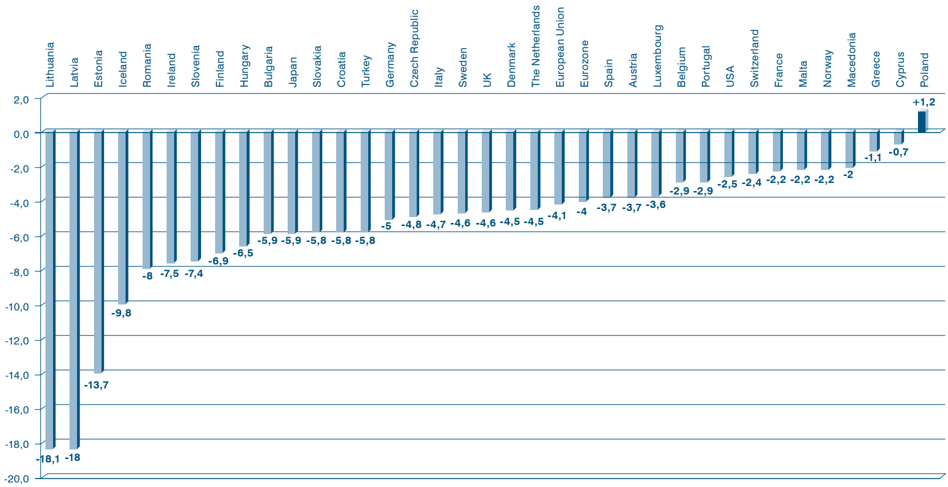
Poland is a parliamentary democracy. The supreme legal act in Poland is the Constitution of April 2nd 1997 and the basis of the Polish State political system. The Constitution guaranties civil rights and liberties, specifies the mutual relationships between judicial, legislative and executive powers. It also decides about the form and way of electing and appointing the most important institutions such as the Sejm and the Senate (the lower and upper chamber of the Polish parliament), the President and the Council of Ministers. It also has a direct influence on the juridical system, local governments as well as governmental review bodies. It regulates issues related to the structure of government and administration, public finance as well as management of states of emergency.

There are three authorities in Poland:

- the legislative authority: held by the Sejm and Senate,
- the executive authority: exercised by the Council of Ministers and the President,
- the judiciary authority: held by the Court and Tribunals.

1.4 Economy

The key premise in favour for doing business in Poland is its current economic state. Poland was one of the few countries in the world and probably the only one in the European Union to demonstrate positive economic growth in 2009. In Europe, it was said to be one of the first countries to cope best with the economic crisis. The following graph shows the economic growth forecast prepared by the European Commission for European Union countries as well as selected non-EU countries.



Source: Eurostat, as for the 14th of January 2010

Growth forecasts for the following years also bespeak Poland as the worldwide leader. According to forecasts prepared by the European Commission, only Slovakia will have higher economic growth than Poland in 2010, and equally Estonia in 2011. The following table shows the economic growth forecast for European Union member countries as well as selected non-EU countries in the years 2009-2011.

SPECIFICATION	2009	2010	2011
AUSTRIA	-3,7	1,1	1,5
BELGIUM	-2,9	0,6	1,5
BULGARIA	-5,9	-1,1	3,1
CROATIA	-5,8	0,2	2,2
CYPRUS	-0,7	0,1	1,3
CZECH REPUBLIC	-4,8	0,8	2,3
DENMARK	-4,5	1,5	1,8
ESTONIA	-13,7	-0,1	4,2
FINLAND	-6,9	0,9	1,6
FRANCE	-2,2	1,2	1,5
GREECE	-1,1	-0,3	0,7
SPAIN	-3,7	-0,8	1,0
THE NETHERLANDS	-4,5	0,3	1,6
IRELAND	-7,5	-1,4	2,6
ICELAND	-9,8	1,9	2,9
JAPAN	-5,9	1,1	0,4
LITHUANIA	-18,1	-3,9	2,5
LUXEMBOURG	-3,6	1,1	1,8
LATVIA	-18,0	-4,0	2,0
MACEDONIA	-2,0	1,5	2,5
MALTA	-2,2	0,7	1,6
GERMANY	-5,0	1,2	1,7
NORWAY	-2,2	0,6	2,0
POLAND	1,2	1,8	3,2
PORTUGAL	-2,9	0,3	1,0
ROMANIA	-8,0	0,5	2,6
SLOVAKIA	-5,8	1,9	2,6
SLOVENIA	-7,4	1,3	2,0
EUROZONE	-4,0	0,7	1,5
SWITZERLAND	-2,4	-0,1	1,1
SWEDEN	-4,6	1,4	2,1
TURKEY	-5,8	2,8	3,6
UK	-4,6	0,9	1,9
EUROPEAN UNION	-4,1	0,7	1,6
USA	-2,5	2,2	2,0
HUNGARY	-6,5	-0,5	3,1
ITALY	-4,7	0,7	1,4

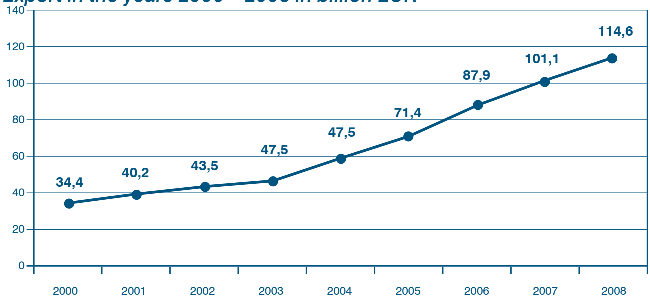
Source: Eurostat, as for the 14th of January 2010

On account of stable growth and large domestic demand, Poland is less susceptible to the global recession. The banking system in Poland did not get into financial trouble, and owing to only a slight increase in the unemployment rate during the world's economic crisis, people are still able to repay their debts promptly.

Foreign trade

According to GUS (Polish Central Statistical Office), from January to December of 2008, the volume of Polish export amounted to 114 566.8 million EUR of which nearly 80% was exported to European Union countries. On the other hand, the volume of import into Poland amounted to 139 328.5 million EUR, and more than 60% of the total amount came from member countries of the European Union. This in turn led to a negative balance of minus 24 761.7 million EUR.

Export in the years 2000 – 2008 in billion EUR



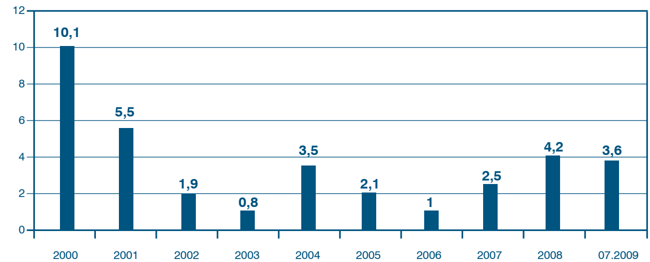
Source: GUS (Central Statistical Office)

From January to December 2008, ¼ of Polish export was sent to Germany and it was four times more than the value of export to France or Italy. The share of Polish export to Great Britain, the Czech Republic and Russia also exceeded 5%. Similarly, as in case of export, Germany was also the main Polish partner for import (with 23% of Polish goods imported from Germany). Alternatively, 10.0% of goods imported to Poland came from Russia. What is more, China, Italy and France were regarded as a group of important trade partners in the same way.

Inflation

Poland's inflation rate rose in 2008. This result was driven mainly by food price growth and increase in price for energy sources in the global markets. The inflation in Poland significantly drove up salaries and related increase of domestic demand. During the last two months of 2008, a slower rate of price increase was observed as a result of a slump in the economy. In 2008, the annual inflation rate stood at 4.2%, whereas in July 2009 the rate slipped to 3.6% (YoY).

Inflation in Poland

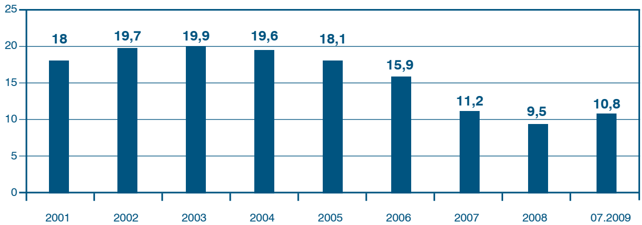


Source: GUS (Central Statistical Office)

Unemployment

In recent years, the unemployment rate has fallen significantly. Unemployment was a long-term trend which arose mainly from significant and stable GNP growth resulting in significant labour demand growth. According to data released by GUS, the unemployment rate at the end of 2008 was 9.5% (7.1% acc. to Eurostat) and 10.8% in July 2009 (8.2% acc. to Eurostat). The average unemployment rate for EU member countries was recorded at the level of 9% and for Eurozone countries at 9.5% (Eurostat data).

Unemployment rate in Poland (%)



Source: GUS (Central Statistical Office)

The Poland has also gained strong international significance by being a member of the most important international organisations such as:

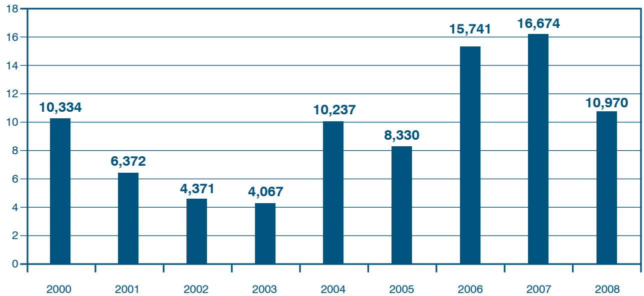
- European Union (EU)
- United Nations (UN)
- Council of the Baltic Sea States (CBSS)
- Central European Free Trade Agreement (CEFTA)
- International Monetary Fund (IMF)
- The United Nations Educational, Scientific and Cultural Organization (UNESCO)
- United Nations Children's Fund (UNICEF)
- World Health Organisation (WHO)
- World Trade Organisation (WTO)
- Central European Initiative (CEI)
- Organisation for Economic Co-operation and Development (OECD)
- The North Atlantic Treaty Organization (NATO)

Investment in Poland

Poland has become an attractive place for investors to do business in Europe. The key factors which Poland has given business have been a favoured central location for foreign investment, internal social and economic stability as well as its accession to the European Union. As stated by UNCTAD, accumulated foreign direct investment (FDI) in Poland reached as much as USD 161.4 billion by the end of 2008. According to the preliminary estimations of NBP (The National Bank of Poland), the value of foreign direct investment in Poland amounted to over 16.5 billion EUR in 2007. More than 80% of that amount was invested by foreign investors from 25 European Union member countries. In general, most of the resources were invested by companies based in Germany, France, the Netherlands, Luxemburg, Austria and America.

Subsequently, the value of FDI fell to about 11.0 billion EUR in 2008 as a result of the economic crisis in the world.

Inflow of foreign capital to Poland in the years 2000 – 2008 in billion EUR



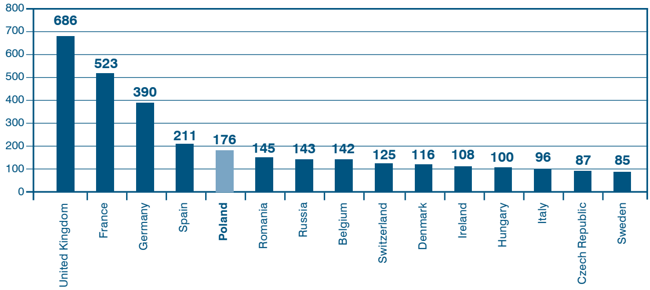
Source: the Polish Information and Foreign Investment Agency

During the first 10 months of 2009, the value of foreign direct investment in Poland amounted to about 8 billion PLN, which was about 90% of investment value in the same period of 2008. Despite the economic slowdown due to the crisis, foreign investors still invest in Poland, and a number of large agreements have been concluded with foreign investors over the last few months. The list below shows examples of companies that decided to invest in Poland in 2009.

- Funai Electric Co Ltd – to invest 17.4 million Euro in the construction of a consumer electronics plant in Nowa Sól;
- Dell – a global computer manufacturer which has decided to move part of its production from Limerick to its plant in Łódź;
- UniCredit Group – an international bank to invest 18.5 million PLN to establish a financial operations centre to provide services to its German, Austrian and Polish affiliates;
- Cargotec – a Finnish company and a provider of cargo handling solutions to invest in the construction of an assembling plant in Stargard Szczeciński. The total value of the investment is estimated to cost 64 million Euro;
- Acer – to invest over 3 million EUR to build its new distribution centre;
- Honda – a Japanese automotive concern to build a new logistics centre and a spare parts storehouse for over 10 million EUR;
- Polimeni International – an American developer to invest over 500 million USD to build shopping centres and apartment buildings;
- Dalkia – to invest 2.5 billion PLN in renewable energy sources in Poland;
- Japan Tobacco International – to invest over 60 million USD to expand its plant in Poland.

Recently, an assembly line for LCD monitors and TV sets as well as a computer hardware plant (Sharp, LG, Toshiba, Dell, TPV) were built in Poland. Also, significant investments were made in the FMCG sector (Unilever/Cadbury). With regard to the automotive industry, production is steadily expanding. In 2007, Poland manufactured 869 536 cars, which accounted for a 21% increase in comparison to 2006. More work places are also being created in smaller manufacturing operations of both foreign and domestic companies. On balance, the number of new investments in Poland went up by 21% in 2006 compared to 2007. Thus, Poland was placed 5th in the European Ranking of New Investments on account of 176 new investments placed in 2008.

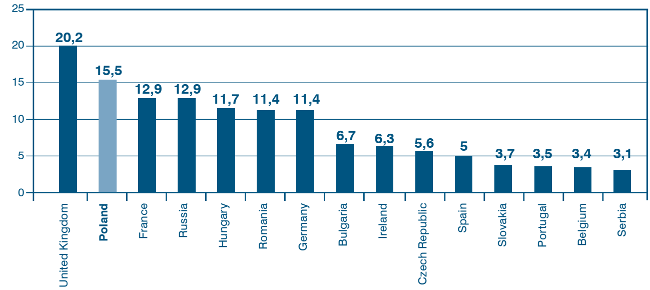
The number of new investments placed in 2008 in individual countries



Source: European Investment Monitor 2009

In 2008, Poland ranked second in the EU as regards new work places created in companies with a share of foreign capital. 20 000 persons were employed in the United Kingdom at that time, compared to about 15 000 in Poland, while overall employment rate in Europe dropped by 16% in that year.

Number of work places created as a result of foreign direct investments (in thousand)



Source: European Investment Monitor 2009

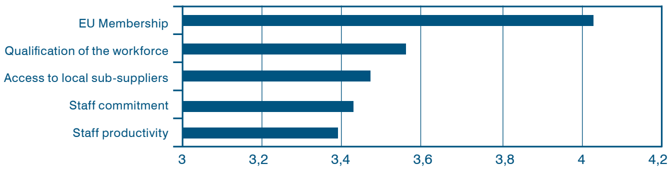
According to studies presented in the European Investment Monitor 2009, investors not only favoured Western Europe as the most attractive investment region in the world (40% respondents) but Central and Eastern Europe as well (39% respondents). Thus Europe outdistanced both China which by now was regarded as world leader (33% respondents) and India (which ranked 5th; 20% respondents).

why it is worth investing in Poland

2.1 Reasons for investment

There are many reasons why so many companies decide to do business in Poland.
The most obvious motives for investing are the size of the Polish market, low labour costs, good economic growth perspectives and the availability of well educated workforce. Polish law is favourably inclined towards foreign investors who intend to start business in Poland. In addition, the government offers many supportive instruments. Investors themselves regard Poland as a very attractive investment region. The chief assets cited by investors are Poland's membership in the European Union and its highly qualified personnel.
In 2008, the results of Ernst & Young's Polish attractiveness survey showed that Poland was in pole position in Europe for inward investment with subsequent positions taken by Germany, Russia, France, Romania, UK, Hungary, Bulgaria, Spain, the Czech Republic, Italy, Belgium and Ukraine.

The key factors strongly improving the attractiveness of Poland for foreign investment amongst investors



Source: Own study based on the report "Assessing investment attractiveness of Poland for foreign investors"

Apart from the above-mentioned factors, there are also other possibilities and events that make Poland a strong contender for investment.

Financial resources from the European Union

Poland obtained over 67 billion EUR out of 380 billion EUR from the European Commission at hand as financial support provided to European Union member countries. Thus, Poland is the biggest beneficiary of that financial aid. Those financial resources were to be allocated over the years 2007 - 2013 to develop and significantly improve the Polish economy. A large amount of financial funds will be earmarked for the construction and modernization of infrastructure. Operational programmes prepared by Poland have been the biggest ones not only as regards the recent financial perspective but often in the entire history of the European Union as well. The financial resources have to be spent by the year 2015.
The biggest EU supported programme was the Infrastructure and Environment Operational Programme with a budget of 27.9 billion EUR. The main objective of the programme is to support big infrastructural projects (the construction of roads and highways) to increase Poland's competitiveness and to attract investors. Other examples of operational programmes are:

- Human Resources Development (9.7 billion EUR)
- Innovative Economy (8.3 billion EUR)
- Development of Eastern Poland (2.3 billion EUR)
- Technical Assistance (0.5 billion EUR)

Apart from 5 national operational programmes, there are also 16 regional operational programmes and the European Territorial Cooperation Programmes, too.
Comapnies can apply for financial aid for businesses associated with:

- investment and support for activities related to research and development (B+R)
- export
- environmental protection (for companies)
- transport
- human resources development
- application for patent and copyright
- cluster creation and development
- establishment and development of industrial and technology parks as well as incubators

Likewise, any entrepreneur interested in setting up a new company or business can also count on financial support.

Flexible Credit Line

On May 6th 2009, The International Monetary Fund (IMF) Executive Board approved an arrangement under the Flexible Credit Line (FCL) for 20.6 billion EUR for Poland. The request for the new credit line was granted as Poland's economic growth had been very strong and balanced against the backdrop of an almost global recession. Access to the FCL is restricted to countries with very sound economic fundamentals, policy frameworks and track records of policy implementation. Poland was granted the right to the credit line for a period of one year with the option to extend that time. FCL was granted unconditionally and it did not require any obligations from Poland. The credit is at NBP's (National Bank of Poland) disposal. The following are advantages of FCL:

- increased creditworthiness and investment credibility of Poland compared to other countries in our geographical region,
- increased access to credit lines for Poland and reduced service costs debt,
- increased investor confidence in the Polish economic policy and the ability of Poland to resist unfavourable global economic trends,
- prevention of any possible speculation and the stabilisation of the exchange rate of the Polish zloty, particularly with regard to declared intensions to join the ER-M2 program in connection with the plans to introduce the Euro as a single currency,
- improved economic stability of the countries in the region.

Low labour costs

Labour costs in Poland are one of the lowest in Europe. They are also lower than in Central and Eastern European countries such as: Slovenia, Estonia, Slovakia, the Czech Republic, Hungary and Latvia. Only Ireland, Greece and Italy have lower labour costs in internal revenue, whereas in Central and Eastern Europe lower labour costs are only in Romania. Differences between countries are quite significant. In the most developed EU member countries (so called "old" EU) the average cost of one working hour is between 25 and 30 EUR, while in Poland it costs less than 5 EUR.

Organisation of EURO 2012

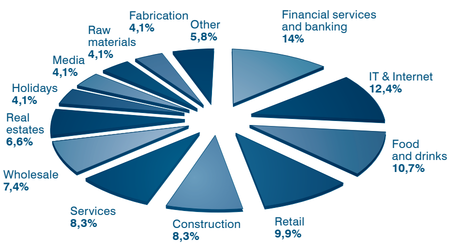
In 2012, Poland and Ukraine will host the Football European Championships. Apart from all the great advantages of this event, Poland will definitely become more attractive for investors. To meet the UEFA requirements as regards infrastructure necessary to organise the championships, Poland has to spend over 100 billion PLN to modernize and build facilities. There are plans that over 1000 km of highways will have been built by 2012. In other words, railways are being modernized; stadiums for several tens of thousand supporters and new hotels are being built. The organisation of Euro 2012 is yet another fact that confirms the strength and attractiveness of the Polish economy.

2.2 Investment opportunities

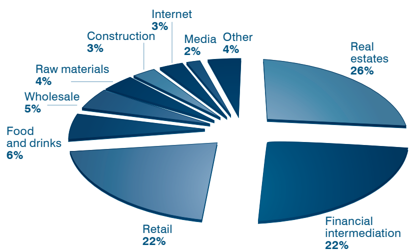
Acquiring an existing enterprise

One of the quickest ways to access the Polish market is to acquire an existing company. This solution has been widely used by foreign investors lately. Its major advantage is transient from the moment an investment decision is taken to the commencement of business activities. Acquisition of an existing company still remains a very attractive form of investment. The number of mergers and acquisitions in Poland confirm this fact. According to data presented by the company Holon Consultants for the period August 2006 to July 2007, the number of mergers and acquisitions in Poland reached the value of 17 billion PLN. Subsequent years showed a further rise in the number with only a temporary slump in 2008 and 2009 as a result of the global economic crisis. Both the number and value of transactions are continually going up. In the first half of 2009, there were 224 transactions, of which the total value was slightly lower than the value of transactions in the respective period of 2008. The total value of transactions for that interval amounted to 3.4 billion Euro (about 15 billion PLN for the exchange rate of 30.06.2009). As regards the dynamics, the number and the value of such transactions; the Polish market stands out above all other Central and Eastern European markets where the number of concluded transactions had fallen by 28% for the same period and their value was reduced by half.
It is much easier to invest in Poland through the acquisition of an existing company as the value of the enterprise in more realistic now. Thus, transactions that were not finalized in the peak of prosperity due to high price expectations of former owners are being concluded nowadays. The same business entities can now be acquired at more attractive prices which may rise again in the near future.
Current owners will definitely be more favourably inclined towards possible acquisitions of their companies. With reduced availability of external financing sources during the crisis, transactions with foreign investors may seem to be the best solution to obtain funds for further development. The financial sector is the key area where merger and acquisition transactions are currently on the increase and of the highest value. The graphs below shows the quantitative and value structure of merger and acquisition transactions in the years 2006/2007.

Quantitative structure



Value structure



Source: Own study based on Holon Consultants

The year 2009 showed less interest in transactions in the financial sector and in real estate due to the crisis. On the other hand, in the second half of 2009, transactions in sectors such as: food, consumer Products, telecommunications and new technologies prevailed.
The power and chemical sectors, which are still largely state-owned, may undergo changes in the future and be privatized.

Privatization

Acquisition of a company privatized by the State Treasury may be equally as profitable as the purchase of a private company. Business entities of such kind are usually characterised by poor organisational culture and a less efficient business operation model which indirectly translates into a better purchase price of advantage to the investor.

The Current political climate favours privatisation as well. On April 22nd 2008, the Council of Ministers approved the document "Privatisation plan for years 2008-2011" which assumed the privatisation of 740 companies owned by the State Treasury and operating in several areas. On February 10th 2009 the plan was extended to 802 companies.

Special Economic Zones

An investor planning to build a company from scratch should consider the offer of Special Economic Zones (SEZs), i.e. an administratively separated area of Poland where business can be done on preferential terms. SEZ offer numerous improvements such as: assistance in investment processes, corporate income tax and property tax exemptions. There are 14 SEZs in Poland. They have appropriate infrastructure adapted to specific industry sectors. Territorial and sector-specific diversity provides potential investors with flexibility to adapt business operation terms to individual investor needs.

So far, Investors have invested nearly 57 billion PLN in SEZs and have created about 211 000 new work places.

If an entrepreneur decides to invest in one of the SEZs, the income received from any business activity in the SEZ is tax-exempt (CIT – fcorporate income tax or PIT – personal income tax, depending on the legal form of the business activity).

An entrepreneur running a business in the SEZ is granted the following privileges:

- income tax exemption (CIT or PIT),
- purchase of land for a competitive price, completely prepared for investment purposes,
- free assistance in completing all the formalities associated with the investment process,
- real estate tax exemption (in the area of particular communes),

The biggest advantage of doing business in Special Economic Zones is income tax exemption from business activities covered by public aid. The corporate tax rate in Poland is currently 19%.

The exemption percentage varies and it depends on:

- company size, e.g.:
  - Small companies (employing less than 50 people with a total annual balance below 10 million EUR)
  - from 50% to 70% of qualified costs (depending on the region);
  - Middle-sized companies (employing less than 250 people or of a total annual balance below 43 million EUR) – from 40% to 60% of qualified costs (depending on the region);
  - Large companies – from 30% to 50% (depending on the region).
- region of the country where the zone is located in – according to the map. Basic maximum intensity of the regional aid, i.e. the percentage share of aid in costs qualified to be covered by aid amounts from 30% to 50%

The condition to be met by the entrepreneur to be entitled to tax exemptions is obtaining the permit to start the investment.

The key conditions for obtaining the permit are:

- minimum investment of EUR 100 000.
- continued business activity for a minimum of 5 years, (3 years for small and middle-sized companies),
- sustainable employment level for a minimum of 5 years, (3 years for small and middle-sized companies),
- forging the transfer of fixed assets associated with investment expenditures for a minimum of 5 years, (3 years for small and middle-sized companies),

Industrial and technology parks

Industrial and technology parks attract companies within the same sector along with their research and development units to one place, and by so doing, facilitate their fast development. They are more and more widely used as a pro-growth solution in Poland. The facilities offered by them are directed both to Polish and foreign companies. Despite the many similarities between separate industrial and technology parks (mission, objectives, types of activities, organisation etc.), they are quite diverse. Every park has its own unique feature associated with regional socio-cultural and economic conditions as well as available growth factors. However, there is no available common universal park model or organisational template that would guarantee success. Independent initiatives reflect specificity of the local business community, science and research units, the type of economy, traditions and common practices of the industrial park as well as the cultural determinants of business.

A technology park is a group of isolated real estate including technical infrastructure, established in order to enable the transfer of know-how and technologies between science and research units and companies. Companies applying modern technologies in technology parks are offered services like:

- consulting on setting up and developing companies,
- technology transfer,
- assistance in transforming scientific research results and development works into technological innovations,
- creation of favourable conditions for doing business.

In May 1995, the science and technology park which was established in Poznań, can be regarded as the first of its kind. Polish Business and Innovation Centres Association provides patronage for the creation and development of technology parks in Poland.

Needless to say, an industrial-and-technological park is a cluster of isolated real estate, regrouped with technical infrastructure left after companies were restructured or liquidated. Such parks are established with the local government authorities in order to provide favourable conditions for doing business, particularly for small and middle-sized companies. Industrial and technology parks are established to:

- locate in the designated industrial area companies that use modern technologies and are efficient on the market
- to attract investors,
- to create new workplaces.

2.3 Business financing sources

Banking system

The banking system in Poland comprises the National Bank of Poland (NBP) and several hundred private commercial banks, co-operative banks as well as loan and insurance institutions. Activities of the aforementioned entities are subject to numerous legal regulations.

The biggest banks in Poland are: PKO BP, Bank Pekao, Bank BPH, Bank Handlowy, ING Bank Śląski, Bank Zachodni WBK. The main banking services offered by them include: granting credits and loans, financial forward and futures transactions, purchase and sale of cash receivables, current financial servicing of business entities. Banks grant loans in different currencies (PLN, EUR, USD) for investments supported by solid business plans. Additionally, they offer long repayment periods and grant money at any branch ensuring appropriate waiting periods. The above factors determine the charge to be paid to the bank for access to borrowed funds.

There are a number of financial consulting institutions in Poland such as: Open Finance, Expander or Xelion. Their main mission is to offer optimal tailored solutions to their clients and to provide clients with information on financial institutions, offering the most favourable terms to meet their goals. There are also institutions and companies which provide their clients with customised business solutions. F

Furthermore, insurance institutions, leasing and factoring companies also play an important role in supporting business activities.

Leasing

Leasing offered by many banks and other financial institutions is a widely used method of obtaining resources to finance investment. There are three main types of leasing:

- operating lease – a lease where capital goods are leased to the business entity without the option to acquire ownership of the asset (similar to tenancy and rental),
- finance (capital) lease – a lease where capital goods are leased and in return the lessee will pay a series of instalments for the use of those asset. The lessee usually has the right to redeem the goods once the contractual period has expired.
- sale-and-leaseback (leaseback) – used when a business entity owns valuable fixed assets and needs cash. It can sell the assets and then lease them back. Thus, one continues to be able to use the fixed assets sold, but no longer owns them.

The following table presents the main differences between operating and financial leasing from a tax perspective

	OPERATING LEASING	FINANCIAL LEASING
LEASE INSTALMENTS	Lease instalments are regarded entirely as tax deductible costs for the lessee and as income for the lessor	Lease instalments are regarded as tax deductible costs for the lessee only on part of the interest rate from the lease instalments and as income for the lessor
DEPRECIATION	Depreciation allowance is made by the lessor	Depreciation allowance is made by the buyer
CONTRACT DURATION	Min. 40% of the nominal depreciation period (or min. 10 years in case of real estate)	Specified time – without any maximum / minimum limit

Factoring

Factoring is becoming more and more popular in Poland every year and there are numerous financial institutions offering this service already. Factoring is a form of ongoing financing made available in all industry sectors where postponed payment dates are used. This way of financing is particularly recommended to regular and reliable customers where factoring costs are much lower. This service allows a financial institution to buy receivables of which the maturing period has not expired yet or receivables that are overdue. Financial institutions offer the following different forms of factoring depending on the overdue period of receivables:

- non-recourse factoring – the outright sale of a firm's accounts receivable to another party (the factor) without recourse. The factor must bear the risk of the collection in the event the debtor becomes insolvent,
- recourse factoring – the outright sale of a firm's accounts receivable to another party (the factor). The factor bears no risk of the collection in the event the debtor becomes insolvent,
- mixed – a combined form of the recourse and non-recourse factoring. The factor bears the risk of the collection but only up to a specified amount of money. However, the responsibility still rests solely with the debtor.

Forfaiting

Increasing number of financial institutions in Poland provide the service referred to as forfeiting. It is a type of cashless payment mainly applied to a wide range of trade related and purely financial receivables as a form of international supply chain financing. In other words, forfaiting is a way of financing operations between an exporter and an importer. The receivables are secured in form of an importer's sola bill (a draft) or a bank draft accepted by the importer. Such operations are quite expensive in comparison to a bill of exchange and credit operations. The forfaiting institution calculates interest based on a higher rate than the nominal value, hence the reason why forfaiting is usually offered by banks.

Bonds

Bonds among others can be issued by corporations. A bond is a debt security, in which the authorized issuer owes the holder a debt. Each bond is characterized by a maturity date, i.e. the date on which the issuer has to repay the nominal amount (stripped securities – issued with a discount) or the nominal amount increased by interest (coupons – the interest rate depends on the rating of the issuer).
Companies can also issue:

- loan stock – the holder can exchange these bonds for shares of the issuer or shares of the issuer's parent company,
- convertible bonds – the holder can convert these bonds into a specified number of common shares of a company other than the issuer.

Subsidies and subventions

The most important institution which coordinates Polish government activities associated with the business sector is the Ministry of Economy. The Ministry of Economy supervises Polska Agencja Rozwoju Przedsiębiorczości (PARP) (Polish Agency for Enterprise Development) which is to act for the benefit of Polish economic and social development. It is also responsible for enterprise development support programmes financed from the state budget and by the European Union. For the most up-to-date information about programmes currently in progress, ways to obtain a grant, free training courses and other services provided to business entities, visit the following web pages: www.mg.gov.pl and www.parp.gov.pl.

Structural funds are the European Union regional policy instrument, also referred to as the structural policy. The purpose of structural funds is to improve the economic and social cohesion of European Union member countries by supporting less developed regions. Actually, Poland became the beneficiary of the support offered within the framework of the regional policy since its accession to the European Union on May 1st 2004. Undoubtedly, Poland takes full advantage of the available support on the same terms as other EU member countries.

The issue of shares in the public market

The issue of shares in the public market (Warsaw Stock Exchange) entails a number of advantages. The fact that a company is listed on the stock exchange market enables it to gain capital, increases its reliability, prestige and the brand awareness as well as improve financial liquidity.

The purpose of the WSE is to organise trading in financial instruments. WSE conducts trading in financial instruments in two markets:

- The main WSE market has been operating since the day WSE was started, i.e. from April 16th 1991. This market is supervised by the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego) which is registered as a regulated stock market in the European Commission.
- NewConnect is a market established and run by the Stock Exchange. It operates based on an alternative trade system. NewConnect was established in 2007 to address the needs of young

and fast-growing companies operating in the new technology sector. In the alternative trading system, securities such as: shares, allotment certificates (PDA), subscription rights, global depository receipts and equity securities are traded.

Currently, WSE is adjusting to the strategy of regional development of the Warsaw bourse to improve the attractiveness and competitiveness of the Polish market. This will favour the implementation of its strategy to make Warsaw the regional financial centre for Central and Eastern Europe. At present, the Warsaw Stock Exchange is a well-established capital market in Europe and a leader in Central and Eastern Europe thanks to both the development potential of the Polish economy and the dynamic development of the Polish capital market.

2.4 Currency policy

An important premise in favour of doing business in Poland is the current Euro exchange rate. In the second half of 2008 and the first half of 2009, The Polish currency underwent significant depreciation. As a result the Euro exchange rate went up to 3.25 PLN in August 2008, and then rose to 4,80 PLN in February 2009. In subsequent months, the Euro exchange rate began falling gradually to fluctuate between 4.03 – 4.11 PLN in the first half of January 2010. The graph below shows the Euro exchange rate over the period from May 2008 to January 2010.

Source: www.money.pl

The conclusion we can draw from the chart is that an investor who had planned to invest say 500 million PLN in August 2008 should have been prepared for the costs of around 150 million Euro. On the contrary, if the same investor had invested in February 2009, it would have been to his advantage to invest as the cost incurred on the investment would have been about 105 million Euro. Moreover, due to the appreciation of the Polish currency in subsequent months of 2009, the investor would have had to spend more funds which would have been from 120 to 125 million EUR.

2.5 Employment policy

Labour factors

An investor planning to employ staff has to take into account additional costs associated with salary surcharge. The costs are summaries in the table below.

TYPE OF CONTRIBUTION	SUBTOTAL	EMPLOYEE	EMPLOYER
RETIREMENT	19,52%	9,76%	9,76%
DISABILITY	6,00%	1,50%	4,50%
SICKNESS	2,45%	2,45%	-
ACCIDENTAL	0,67% - 3,60%*	-	0,67% - 3,60%*
HEALTH	9,00%	9%	-
LABOUR FUND	2,45%	-	2,45%
GUARANTEED EMPLOYEE BENEFITS FUND	0,10%	-	0,10%
TOTAL	40,19-43,12%	22,71%	17,48-20,41%

Source: Own study

Working time

Moreover, an investor who employs staff is obliged to respect Polish working time regulations. According to the law and the assumed rules, every Sunday is a holiday. Nevertheless, this rule does not apply to groceries, shopping centres, restaurants and bars which are open also on traditional holidays, excluding bank holidays.

Apart from Sundays there are also 11 additional bank holidays in Poland, i.e.:

- 1st of January – the New Year,
- the day after Easter (moveable holiday),
- 1st of May – Labour Day
- 3rd of May – Constitution Day,
- Pentecost (moveable holiday),
- Corpus Christi (moveable holiday),
- 15th of August – Assumption of the Blessed Virgin Mary,
- 1st of November – All Saints' Day.
- 11th of November – Independence Day,
- 25th of December – Christmas Day,
- 26th of December – Boxing Day.

A working day in private companies usually starts at 9:00 and ends at 17:00, whereas in state offices it usually lasts from 8:00 to 16:00, but it is not regulated by law and differs depending on the company type.

Full time employees are obliged to work according to the following rules:

- 8 hours a day,
- 40 hours a five-day working week, in the assumed maximum four week long settlement period,
- Overtime – the total average working time in the assumed settlement period cannot exceed 48 hours a week (this norm does not apply to executive staff).

Employment of foreigners

Different Polish labour regulations apply depending on whether or not the foreigner is a citizen of the European Union member country and/or the European Economic Area (the country with which the EU concluded agreements on free movement of workers).

The criterion defining the scope of labour freedom for foreigners from UE member countries is their citizenship. On the other hand, for citizens of non-EU countries, the job type criterion has been assumed. Thus, the labour policy is different for different jobs. Some jobs do not require any permit at all, whereas for other jobs simplified permit procedures apply, where some requirements are omitted.

Recent changes in the labour law as regards employment of foreigners in the Republic of Poland aim to open the Polish labour market to foreigners, which is testified first and foremost by extending the group of jobs which do not require any permit as well as the simplification of the permit procedure itself.

Regulations introduced on February 1st 2009 were of key importance to simplify the procedure for employment of foreigner in Poland. This was to include the gradual removal of the two-stage work permit application procedure, and thus lift the requirement to receive work permit promise as well as reducing the number of required documents checked by the authorities during the procedure.

Visas

As of May 1st 2004, citizens of European Union member countries have right for non-visa traffic within the European Union/European Economic Area. Moreover, in December 2007, Poland signed the Schengen Agreement which assures passport free-travel throughout Schengen area. The agreement facilitated the process of gradually phasing out of Passport controls at the boarders of countries which signed the agreement. However, when crossing the boarder one has to have some ID document (ID card or a passport) on him/her.

The Schengen Agreement zone includes the following countries: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, the Netherlands, Island, Lithuania Luxemburg, Latvia, Malta, Germany, Norway, Poland, Portugal, Slovakia, Slovenia, Sweden, Hungary and Italy. The Schengen area excludes two EU member countries: Great Britain and Ireland.

Moreover, citizens of the following countries may visit and stay in Poland without a visa for 90 days: Andorra, Antigua and Barbuda, Argentina, Australia, Austria, the Bahamas, Barbados, Belgium, Brazil, Brunei, Bulgaria, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Guatemala, Spain, Honduras, Hong-Kong (Special Administrative Region of PRC), Ireland, Island, Israel, Japan, Canada, South Korea., Costa Rica, Liechtenstein, Lithuania, Luxemburg, Latvia, Macau (Special Administrative Region of PRC), Malaysia, Malta, Mauritius, Mexico, Monaco, the Netherlands, Germany, Nicaragua, Norway, New Zeeland, Panama, Paraguay, Portugal, Romania, Salvador, Saint Kitts and Nevis, San Marino, Seychelles, Singapore, Slovakia, Slovenia, Switzerland, Sweden, Uruguay, USA, Vatican, Venezuela, Hungary, Italy, and the UK

Pursuant to the Foreigners Act, a foreigner crossing the Polish boarder gets a uniform visitor's or transit visa or a national visa. Uniform visitor's visas or national visas are issued to foreigners coming to Poland to do scientific research, on business or to take on a job. The latter can be granted to a foreigner who submits a work permit for the territory of the Republic of Poland or a written declaration of the employer about the intent to employ the foreigner if the permit does not apply.

starting business in Poland

3.1 Types of business organisations

Pursuant to Polish law, the following consolidated financial reports of capital groups as well as annual financial reports of going concern business organisations are subject to opinion of the statutory auditor:

- banks and insurance companies,
- business units operating pursuant to the provisions of the law on the public trading of securities as well as the law on investment funds,
- joint stock companies except for companies under organisation as of the balance sheet day,
- other business organisation meetings – at least two of the following conditions as for the previous financial year:
  - average annual employment adding up to at least 50 full-time employees,
  - value of the assets in the balance as for the end of the financial year was equivalent to 2,500,000 Euro.
  - net income from sales of products, goods and from financial operations as for the financial year are equivalent at least to the amount of 5,000,000 EUR,
- the entities preparing financial reports for which conditions specified in the latter point apply,
- financial reports of acquiring and newly established companies prepared as for the financial year when the merger took place as well as annual financial reports prepared according to the International Accounting Standards (IAR),
- combined annual financial reports of investment funds and their sub-funds as well as separate annual financial reports of the sub-funds.

Main types of business organisations in Poland include:

1. Limited companies:

- a joint stock company,
  (referred to in Poland by the acronym as “S.A.”)
- Limited liability company
  (referred to in Poland by the acronym as: “Sp. z o.o.”)

2. Partnerships

- Limited partnership business entity
- Partnership limited by shares
- Limited liability partnership
- Registered partnership

3. Other

- Civil-Law partnership
- Sole proprietorship

3.2 Legal and financial regulations

To make use of particular financing forms, companies have to meet specified legal requirements. If small and middle-sized companies intend to raise financial resources through the stock exchange market, the legal form of the company is of high importance to them indeed. Normally, small and middle-sized companies are civil-law partnerships, registered partnerships or limited partnerships. The aforementioned business types are different forms of partnership, which means that partners play a major role in the business operations. They invest not only their own capital but also personally run the company. Furthermore, such companies do not have the status of legal entity, thus they cannot take on any obligations on their own behalf but on behalf of the partners only. This increases the business risk as the entire property of the partners is subject to liability. Apart from that, as partnerships are not legal entities, they cannot issue securities i.e. shares and bonds.

As a company develops, there is an increasing need for significant external funds and for new partners. Hence, partnerships become limited companies, for instance: a limited liability company or a joint stock company. Partners of limited companies (i.e. shareholders in limited liability companies and stockholders in joint stock companies) invest their capital in the company but they usually do not run it. Limited companies are characterised by the extended structure of external bodies. Such companies are run by management boards and usually supervised by the board of trustees. However, shareholders can have an insight into the company's operations at the Shareholders (partners or stockholders) General Assembly. Limited companies have the status of legal entities, thus they can take on obligations on their own behalf. This reduces the business risk as the liability of shareholders is limited up to the value of their shares. Moreover, as they are legal entities, limited companies can issue securities. Limited liability companies can issue bonds, whereas joint stock companies can issue bonds and shares (shares of limited liability companies are not considered as securities). Large companies that raise huge capital from a number of investors are usually joint stock companies.

The status of a legal entity is particularly important and it is a precondition to raise capital from investment funds and through the stock exchange market. Funds usually invest by acquisition of shares in limited liability companies or joint-stock companies. Thus, they provide companies with the necessary capital and support them in business management and control. However, raising financial resources through the stock exchange market is only possible through the issue of bonds or shares in the public market (securities). Since shares in limited liability companies are not considered as securities, such companies cannot raise capital through the stock exchange market but by means of debt capital only. Therefore, limited liability companies can only issue bonds in the stock exchange market, whereas joined stock companies may issue both bonds and shares there.

Small and middle-sized companies in Poland, with the status of partnership that intend to raise capital from investment funds or through the stock exchange market must first of all change their legal form into a limited company. A partnership (civil-law, registered or limited partnership) can be converted into a limited company (i.e. a limited liability company or a joint stock company) by undertaking the following measures:

- establishing a proper limited company (i.e. a limited liability company or a joint stock company),
- making a contribution in the form of the company owned by the partnership and then acquiring shares in limited liability company or in joint-stock company,
- liquidation of the former partnership.

An important business organisation type in Poland is a branch (subsidiary) of a foreign entrepreneur. A branch is a form of direct presence of a foreign entrepreneur (e.g. German or American limited liability company) on Polish market. Unlike a daughter company, a branch is not a legal entity but an organisation form. That is to say that the parent company pays taxes in Poland, employs staff and cooperates with contractors instead of the branch. Moreover, the parent company is subject to the same law and obligations as Polish companies.

tax system in Poland

4.1 The structure

The reasons investors give as to Poland's attractiveness as a favourable location for potential investment are low corporate tax rates. In fact, the current corporate tax rate of 19% is one of the lowest in the European Union, but at the same time, the drawback of the Polish taxation system is its high complexity. In all, there are 12 types of taxes in Poland which can be categorized as direct tax and indirect tax.

9 direct tax:

- corporate income tax (CIT),
- personal income tax (PIT),
- tax on civil and legal transactions,
- fixed property tax,
- tax on means of transport,
- inheritance and donation tax,
- agricultural tax,
- forest tax,
- dog tax

3 indirect taxes:

- value added tax (VAT),
- excise tax,
- gambling and lottery tax.

Changes made to the taxation system over the years 2008-2009 improved Poland's attractiveness for investments. Moreover, the tax policy of the government is a significant criterion which has influenced the inflow of direct foreign investments. When making investment decisions, investors compare tax rates in the countries of similar location and similar market size considered by them as potential investment places. Tax burdens mostly affect investments in the fast-moving industry sectors such as: logistics service, research and development projects and production of microprocessors (i.e. sectors of the highest priority for Poland).

The Polish taxation system compared to tax solutions in other countries:

- uniform tax rate for all income types – 19%
- option to combine loss and income from different sources (except for sources exempted from the tax)
- double taxation prevention treaties signed with a number of countries
- leading edge low tax solutions – these have been implemented in Poland
  - – Transfer prices
  - – Insufficient capitalisation
- EU directives on a common system of taxation applicable to mergers, divisions, the transfer of assets and the exchange of shares have already been implemented in Poland
- Implementation of the EU directive on interest and license taxation was put on hold (with respect to the transition period negotiated with EU)
- Beneficial taxation solutions
  - – Special Economic Zones (SEZs)
  - – Leasing as a financial instrument to significantly shorten the time of depreciation of leased fixed assets
  - – Financial costs assigned to tax deductible expenses connected with the company operations (interests, financial operation loss)

Possibilities to optimize tax burden

The Polish taxation system, business organisation types and international regulations binding in Poland (including double taxation prevention treaties) enable entrepreneurs to optimize the tax burden connected either with production, services or capital investment.

- Capital investment optimization

  This solution can be particularly beneficial to private persons who are Polish tax residents. In case of capital engagement in a limited company doing business in Poland, the transfer of profits made by the company to its shareholder would require the company to pay corporate income tax (19% CIT), and the shareholder to pay personal income tax on the dividend received from the company (19% PIT). The optimized solution facilitates the introduction of a Cypriot limited liability company (being part of the same holding) between the shareholder and the operating company. Such an optimized solution, thanks to the competent application of EU regulations as well as the double taxation prevention treaty signed by Poland and Cyprus, allows for a significant reduction in capital transfer tax burden (on the transfer of profit from the operating company to the shareholder) to 9 % (instead of 19%).

- Optimization associated with operating activities

  Persons earning profits from manufacturing, trade or service operations can optimize their tax burden by changing the business organisational type into limited partnership. The general partner of such a partnership is a limited liability company established specially for that purpose, while the limited partners are persons who carry out a given business activity. Due to the fact that the corporate income tax on the profit made by the limited partnership is paid by its partners, this solution provides combined favourable income tax burden (19%) with reduced personal responsibility for the Company's liabilities.

  The same benefits apply to a joint stock limited partnership. However, the difference between those two partnership types lies in the fact that a limited joint stock partnership, unlike in a limited partnership (where the limited partner has a particular share in the board of partners), there is a shareholder holding specified number of shares. The advantage of such a solution is that the change of partners does not take place by sale of the share (i.e. the set of rights and obligations) but by sale of stock (securities well known to investors).

4.2 Taxation of business operations

Corporate income tax (CIT)

CIT is a flat tax in Poland (19%), which is levied on all taxable income earned in a given financial year. Taxpayers are obliged to calculate the CIT tax payable in monthly instalments during the financial year. CIT income goes towards the state budget, but the local government also receives a percentage of it. CIT allows for transfer prices which apply in case of transactions between a taxpayer and entities affiliated with the taxpayer as regards equity or persons. As a consequence, the taxpayer has an obligation to prepare a detailed tax documentation to be submitted during a tax audit.

4.3 Personal taxation

Personal income tax (PIT)

PIT is paid by individuals: hired workers, pensioners, contractors, freelancers as well as entrepreneurs, partners and stock exchange investors. Individuals are subject to tax mainly on income, but there are real cases where tax is based on revenue. The amount of tax due is determined based on a progressive tax scale which includes two scales: 18% and 32% (for annual income exceeding 85,528 PLN). The following table presents a comparison of tax rates in other European Union member countries:

COUNTRY	PIT RATES
Austria	from 36,5 % to 50%
France	from 5.5% to 40%
Greece	from 27% to 40%
Ireland	from 20% to 41%
Germany	from 15% to 42%
United Kingdom	from 20% to 40%
Italy	from 23% to 43%

Entrepreneurs and partners of partnerships may opt to pay PIT according to 19% rate which is a flat tax. Similarly, capital gains tax is also a flat tax in Poland. Finally, there is a group of revenue (e.g. lease revenue) which is subject to lump-sum taxation. Data available at the Ministry of Finance indicates that only less than 2% of taxpayers pay PIT according to 32% rate.
The following tax scale applies to the personal income tax in the year 2009:

TAX BASE (IN PLN)		TAX TO BE PAID
ABOVE	UP TO	
-	PLN 85,528,	18% of the base minus 556.02
PLN 85,528,	-	14 839,2 PLN + 32% of the base exceeding 85 528 PLN

These are either subject based tax exemptions (e.g. tax exemption for foreign diplomats), and a number of object based tax exemptions (e.g. exemption from business trip allowance tax). There are also additional tax deductions. Moreover, a taxpayer can deduce the following expenditures from the tax base: spending on social purposes, housing purposes, paid training, tuition fees or rehabilitation costs. PIT is supposed to be a tax levied on personal income of every person yet farmers are excluded from this group. Married couples and single parents can apply for common base taxation which may reduce the tax burden in some cases. Taxpayers are obliged to pay income tax instalments during the tax year and then to submit their annual tax statement. PIT income goes towards the state budget, but the local government also receives some percentage of it. PIT just like CIT allows for transfer prices which apply in case of transactions between a taxpayer and entities affiliated with the taxpayer with regard to equity or persons. As a result, the taxpayer is obliged to prepare a detailed tax documentation to be submitted during a tax audit.

4.4 Other taxation forms

Value added tax (VAT)

In general, Polish VAT law is consistent with the European Union regulations. The following goods and services are subject to VAT: delivery of goods and services in the territory of Poland, intercommunity purchase or sale of goods as well as import and export of goods. The standard VAT rate imposed in Poland is 22%, whereas reduced rates are 7% (the preferential rate), 3% (the super-reduced rate) and 0%. On the whole, there are still some goods which are exempted from VAT according to EU directives. Taxpayers are obliged to calculate VAT and payable in monthly or quarterly instalments. VAT income goes towards the state budget only.

Customs duty

The Customs system in Poland is fully compliant with the European Union system known as the Community Customs Code which is binding in Poland (like in all other European Union member countries). Customs duty is imposed on all goods imported into or exported of the European Union territory. Income on customs duty goes towards the European Union's budget.

Excise tax

Certain goods are subject to excise tax. The underlying idea of this tax was to reduce the consumption of goods harmful to human health, to impose additional tax on luxury goods as well as to ensure additional income to the state budget. Thus, Excise tax is imposed on: tobacco products, alcoholic beverages, passenger cars and sale of electric energy. Unlike VAT, excise is a single-phase tax imposed generally in manufacturing and import phases. Goods subject to excise can be divided into harmonized ones for which the European Union regulations apply and non-harmonized subject to excise based on Polish regulations only. VAT and excise are not mutually exclusive but they are paid independently.

Tax on civil and legal transactions (PCC)

The following transactions explicitly cited in the act on civil and legal transactions are subject to PCC: sale, loan and donation. Since the subject of PCC taxation partially overlaps the subject of VAT, the transactions in which at least one party is subject to VAT or is exempted from VAT are exempted from PCC likewise.

Tax on means of transport

It is a property tax that constitutes income of a community. It is imposed on truck owners (private persons, legal entities and entities without the status of legal entity).

Fixed property tax

It is also a property tax that constitutes income of a community. It is imposed on land owners and holders of perpetual usufruct right as well as autonomous possessors of land or buildings.
The table below summarizes maximum property tax rates in 2009:

FIXED PROPERTY TYPE	TAX RATE
Land	0.74 PLN/m^2
Residential buildings	0.62 PLN/m^2
Buildings associated with business activity	19.81 PLN/m^2
Structures	2% of the fixed property value (shown in the accounting books as a depreciation base)

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