Why this book?
This book contains the official text of the OECD Model Tax Convention on Income and on Capital (2017 condensed version), together with the relevant 2019 updated country tax summaries and treaty charts. The country tax summaries provide a concise description of the current direct taxes levied in each OECD member country, including taxes on corporate income, individual income and capital. Under each of these headings, the domestic situation is described, followed by international aspects (both the situation of a resident taxpayer receiving income from abroad and that of a non-resident receiving income from the relevant country).

The fully up-to-date charts provide simple tools to quickly determine the corporate tax rates and domestic and treaty withholding tax rates on dividends, interest and royalties.

With ease of use in mind, this book provides a complete and handy reference for all those dealing with international taxation.

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# Table of Contents

## Part A

Model Tax Convention on Income and on Capital

- Introduction 9
- Model Tax Convention on Income and on Capital 23
- Commentaries on the Articles of the Model Tax Convention 53
- Non-member countries’ positions 607
- Annex – Recommendation of the OECD Council 653

## Part B

Key Tax Features of Member Countries 2019

### Country Sections

- Introduction 661
- Australia 663
- Austria 673
- Belgium 683
- Canada 695
- Chile 705
- Czech Republic 715
- Denmark 723
- Estonia 735
- Finland 745
- France 757
- Germany 767
- Greece 777
- Hungary 787
- Iceland 797
- Ireland 805
- Israel 817
- Italy 825
- Japan 839
- Korea (Rep.) 849
- Latvia 857
- Lithuania 871
- Luxembourg 885
- Mexico 895
- Netherlands 905
- New Zealand 915
Table of Contents

Norway 923
Poland 931
Portugal 941
Slovak Republic 953
Slovenia 963
Spain 973
Sweden 985
Switzerland 993
Turkey 1001
United Kingdom 1011
United States 1029

Tables and Charts

| Introduction | 1045 |
| Corporate income tax rates (2019) | 1047 |
| Non-treaty passive income withholding tax rates (2019) | 1049 |
| Treaty chart | 1057 |
Introduction

The following country sections provide a brief description of the taxes levied on income and on capital in the OECD member countries. Each country section is structured according to a standard layout as follows:
I. Taxes on Corporate Income
II. Taxes on Individual Income
III. Taxes on Capital

Under each of the above headings, the domestic situation is described followed by the international aspects. In respect of the international aspects, the situation of a resident taxpayer receiving income from abroad (having capital abroad) is addressed, followed by a description of the tax treatment of a non-resident receiving income from the relevant country (having capital in that country).

The country sections are based on information available to IBFD up to 15 March 2019. The provisions of the Parent-Subsidiary Directive and the Interest and Royalties Directive are generally not discussed in the relevant sections.

More comprehensive coverage of the majority of the countries can be found in other IBFD publications, most notably the Global Tax Handbook 2019, and online databases in IBFD’s Tax Research Platform. For tax treaty information, please refer to IBFD’s Treaties & Models database. For the latest developments, see IBFD’s Tax News Service.

The following terms and abbreviations are used in the sections:
– EEA – European Economic Area;
– EU – European Union;
– Parent-Subsidiary Directive – Council Directive 2011/96/EU of 30 November 2011 on the Common System of Taxation Applicable in the Case of Parent Companies and Subsidiaries of Different Member States (as amended); and
Chile

1. Taxes on Corporate Income

1.1. Corporate income tax

Corporate profits are subject to business income tax. Chile applies an imputation system. Business income is subject to business income tax (impuesto de primera categoría) when derived by an enterprise and, thereafter, it is also subject to individual income tax, namely global complementary tax (impuesto global complementario) when derived by individual shareholders or subject to by non-resident income tax, namely additional tax (impuesto adicional), when derived by non-resident shareholders (both legal entities and individuals). The business income tax paid by the enterprise can be (partially or fully) credited against the shareholders’ tax liability. A special ledger (Fondo de Utilidades Tributables, FUT) is required to keep track of retained profits and the corresponding tax credit.

The tax reform introduced by Law 20,780 of 2014 has introduced changes to the business income tax system over a 4-year period.

The new system gives the taxpayer an option between two systems: the attributable income system (regimen de renta atribuida) and the partial credit imputation system (regimen de imputación parcial de crédito).

Under the attributable income system, the same income is taxed in the hands of the business and in those of the shareholder upon accrual, i.e. irrespective of actual distribution. The business income tax paid is fully creditable against the shareholders’ tax liability. This system is not available for incorporated joint-stock companies (sociedades anónimas) and enterprises having resident legal entities as shareholders.

Under the partial credit imputation system, income is subject to business income tax at a higher rate (effective from tax year 2017) and subsequently taxed in the hands of the shareholders, but only when effectively distributed. In addition, only a partial credit for the business income tax levied is granted (i.e. 65%).

Dividends distributed to resident legal entities are either (i) not subject to business income tax in the hands of the shareholder, provided that the shareholder also falls under the partial credit imputation system or (ii) subject to business income tax in the hands of the shareholder (i.e. dividends are included in the taxable base of the entity), in case this shareholder falls under the attributable income system.

On 23 August 2018, the government presented a tax reform package. The package proposes, among other things, to re-establish the full integration between business income tax, individual income tax and non-resident withholding tax. Under the proposed rules, a 100% imputation credit will be granted for any business income tax paid in Chile against any individual income tax (impuesto global complementario) and the withholding tax applicable to non-residents (impuesto adicional). The proposal is still under discussion.
Any person undertaking commercial, industrial, mining or other business activities is subject to business income tax. Persons deriving income from capital are also subject to this tax. The business income tax is levied on income from any business activity whether the enterprise is a legal entity, a branch, permanent establishment of a foreign company, sole proprietorship or an individual.

1.1.1. **Residence**
Companies incorporated in Chile are treated as residents.

1.1.2. **Taxable income**
Resident companies are subject to business income tax on their worldwide income. Non-residents are subject to non-resident income tax on their Chilean-source income. In general, Chilean-source income is income from assets located in Chile or activities carried out therein.

Taxable income is defined as gross income less direct costs of goods and services, and necessary expenses to produce that income, adjusted for inflation and corrected as provided by law. Chilean-source income is calculated on a cash or accruals basis. Foreign-source income is generally calculated on a received basis; however, income derived by permanent establishments of resident companies located abroad is calculated on an accruals basis.

1.1.3. **Losses**
Losses incurred are deductible and may also be set off against profits that have not been distributed. If the profits are not sufficient to offset the losses, the losses may be carried forward indefinitely. However, the carry-back of losses is not available.

There are no special rules for capital losses.

1.1.4. **Rates**

1.1.4.1. *Income and capital gains*
In 2019, the business income tax is levied at the rates of 25% (attributable income system) or 27% (partial credit imputation system).

1.1.4.2. *Withholding tax*
Generally there is no withholding tax system on payments to resident companies.

1.1.5. **Incentives**
Main incentives include accelerated depreciation, rights that may be granted under a contract signed with the Chilean state as provided by the Foreign Investment Statute (Law 20,848), special tax treatment for different types of capital gains, a business platform (offshore company) regime, research and development credit, regional incentives, tax credits and other benefits for gifts to a national fund for reconstruction of damages produced by natural disasters and a special regime for income from bonds.
1.1.6. *Intercompany dividends and group treatment*

Dividends distributed to resident legal entities are either (i) not subject to business income tax in the hands of the shareholder, provided that the shareholder also falls under the partial credit imputation system or (ii) subject to business income tax in the hands of the shareholder (i.e., dividends are included in the taxable base of the entity), in case this shareholder falls under the attributable income system.

There is no group treatment.

1.2. Other taxes on corporate income

Generally, there are no other taxes on income in addition to the normal income tax.

However, income from mining activities is subject to a specific tax on “operational income” in addition to the general income tax. The tax (*impuesto específico a la actividad minera*) is deductible for income tax purposes. Operational taxable income is equal to the net taxable base for business income tax with some adjustments, i.e., income, costs or expenses not directly related to the sale of mining products are not taken into consideration. In addition, accelerated depreciation and losses from previous years are not deductible.

Tax rates depend on several factors: annual sales of mining products, profit margins, tax year, outstanding contract with the government and the contract terms.

In addition, there is a simplified income tax regime for small taxpayers, i.e., micro, small and medium-sized, under which the taxpayer is subject to ordinary income tax on the surplus of receipts over disbursements based on his records and invoices.

There is also a simplified income tax regime on presumptive income for small agricultural, land transport or mining businesses. For this purpose, annual sales or gross receipts must not exceed specific legal thresholds. The tax is a percentage of the value of the immovable properties, vehicles or annual net sales of mining products.

1.3. International aspects

1.3.1. *Resident companies*

Resident companies are subject to business income tax on their worldwide income. Foreign dividends and other profit distributions, capital gains, interest and royalties derived by resident companies are included in the business income tax taxable income.

Only after-tax foreign-source net income received is considered (excluding income that is not obtainable for reasons of force majeure, acts of God or legal provisions of the country of origin). In the case of permanent establishments located abroad, foreign-source income is computed on an accrual or received basis, including foreign taxes due or paid.
An ordinary tax credit method is generally granted as a unilateral measure to avoid double taxation. The credit is granted with respect to foreign dividends or profit distributions, royalties and technical assistance fees received, and on income accrued or remitted by permanent establishments located abroad. In respect of other income (i.e. other fees, interest and rents from immovable or movable property), the foreign tax may only be deducted from the foreign-source income. The credit is generally limited to the lesser of the business income tax calculated (according to a specific formula) on the foreign-source income or the foreign tax effectively paid.

With respect to taxes paid on dividends and profit distributions, the credit is limited to the lesser of a 32% credit limit calculated (according to a specific formula) on the foreign-source net income derived by the taxpayer in the tax period or the foreign tax effectively. An underlying credit is also available in the case of dividends and profit distributions. Furthermore, the income tax paid by companies on the profits distributed to the company that remits such profits to Chile may also be credited (as indirect foreign tax credit), provided that at least 10% of the capital of the first-mentioned companies is directly or indirectly owned by the company remitting the profits. Under amendments introduced by Law 20,899 of 2016, the indirect foreign tax credit is also granted if companies making the distribution to the company that remits such profits to Chile are resident in a different country, provided this country has a tax treaty or exchanges information with Chile. The foreign tax credit can be carried forward without limit. There is no carry-back of the foreign tax credit.

The ordinary credit method is generally also used in comprehensive tax treaties concluded by Chile. In this case, a credit is granted for the amount that is the lesser of the foreign tax effectively paid or a 35% credit limit calculated (according to a specific formula) on the foreign-source income with respect to all income referred to in the tax treaty.

1.3.2. Non-resident companies

1.3.2.1. Taxable income

Non-resident companies without a permanent establishment in Chile are subject to non-resident income tax on their Chilean-source income, with a credit for the business income tax paid with respect to that income.

Permanent establishments in Chile of non-residents are treated as separate entities for income tax purposes and are subject to income tax on the worldwide income attributed to them. Income is generally subject to business income tax under general rules and to non-resident income tax on remittances abroad. The business income tax paid is credited against the non-resident income tax.
1.3.2.2. *Withholding tax*

Chilean-source income derived by non-residents without a permanent establishment in Chile is generally subject to a final withholding tax at the rate of 35% on the gross amount. However, different rates apply, depending on the type of income, including:

- Dividends and other profit distributions derived by non-residents are subject to a final withholding income tax of 35% calculated on the gross amount. The business income tax previously paid is creditable against the non-resident income tax *(see section 1.1.)*.

- Interest derived by non-residents is subject to withholding tax of 35% on the gross amount. A reduced withholding tax rate of 4% applies to certain interest payments that fulfil requirements defined by law. However, under thin capitalization rules, interest paid in excess of the allowed ratio is taxed at the higher rate of 35%.

- Payments for the use of, the right to use or the exploitation of trademarks, patents, formulas and other similar supplies are subject to withholding tax at the rate of 30% on the gross amount.

- Payments for the use of, the right to use or the exploitation of discovery patents, utility models, industrial drawings and designs, sketches or topographies of integrated circuits and new vegetal varieties are subject to withholding tax at the rate of 15% on the gross amount.

- Payments for the use of, the right to use or the exploitation of software are subject to withholding tax at the rate of 15% on the gross amount. However, payments made for the following software are not subject to tax: (i) basic programs, which are defined as those indispensable for the functioning of the equipment or machine; and (ii) shrink-wrap software, in which case the transferred rights are limited to the use of the program, and not its commercial exploitation, its reproduction or modification made for any purpose other than its use.

- Payments to foreign producers or distributors for material to be shown in cinemas or in television broadcasts are subject to withholding tax at the rate of 20% on the gross amount.

- Payments for the use of copyright or authors’ rights are subject to withholding tax at the rate of 15% on the gross amount.

- Payments for engineering and technical works supplied through an advice, report or draft, carried out in Chile or abroad, are subject to withholding tax at the rate of 15%.

Higher rates may apply in certain cases where the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list or qualifies as a preferential tax jurisdiction according to certain general criteria provided by the legislation.
1.4. Anti-avoidance

1.4.1. Thin capitalization

Chilean income tax law contains specific thin capitalization provisions with respect to certain interest payments to non-resident related parties, i.e. interest from loans granted by foreign or international banks or financial institutions; interest to finance imports; and interest on Chilean or foreign-currency bonds issued by Chilean companies.

These interest payments are generally subject to a withholding tax at the rate of 4%. However, when the debt/equity ratio exceeds the 3:1 threshold, the excessive amount of interest is subject to tax at the rate of 35%.

The difference between the 4% withholding tax rate and the 35% tax rate, on the interest paid in excess of the threshold, is payable by the debtor and is deductible from his taxable income.

Financial entities qualified as such by the Ministry of Finance are excluded from the scope of the thin capitalization rules, provided that, inter alia, at least 90% of the assets of such entities are loans granted to non-related persons for at least 330 days and debts with related and non-related parties do not exceed 120% of the total loans during the commercial year.

1.4.2. Controlled foreign company

Law 20,780 of 2014 introduced CFC legislation effective from 1 January 2016. Accordingly, resident companies or individuals are deemed to have received or accrued passive income derived by a foreign controlled entity at the end of the tax period in proportion to the participation rights, thereafter the passive income being subject to the business income tax.

If the passive income derived by the foreign controlled entity is more than 80% of its total profits, 100% profits are deemed to be passive income. Taxpayers are granted the foreign tax credit for the foreign taxes paid or due with respect to the passive income under the general rules (which distinguish whether a tax treaty is applicable).

The CFC rules do not apply if:
- the passive income is less than 10% of the total profits;
- the value of the assets of the foreign controlled entity that may generate passive income do not exceed 20% of the total value of its assets; or
- the passive income of the controlled entity was subject to income tax at an effective rate of at least 30% in the country of domicile, the country of incorporation or where the entity is established.

If an entity is resident, domiciled or established in a low-tax jurisdiction, the entity is also presumed to derive net passive income, and additional information requirements are applicable.
2. Taxes on Individual Income

2.1. Individual income tax

Individuals resident in Chile are subject to individual income tax.

2.1.1. Residence

Residents are individuals present in Chile for more than 6 months in a calendar year or in a period of 2 consecutive calendar years. Domiciled persons are individuals that have the intention to stay in the country on a permanent basis, which can be assumed from the person’s circumstances (e.g. employment contract, the person’s family residence, children’s school, etc.).

2.1.2. Taxable income

Residents or domiciled persons are liable to income tax on their worldwide income. Non-resident individuals are liable to income tax only on their Chilean-source income. Foreigners that establish domicile or residence in Chile are liable to income tax only on their Chilean-source income during the first 3 years in the country (this period may be extended by the tax administration in special cases). In general, Chilean-source income is income from assets located in Chile or activities carried out therein.

Income of Chilean-situs property and income from activities carried on in Chile is treated as Chilean-source income.

Income tax is assessed according to a schedular system, based on the nature of its source:
- business income tax is levied on business income under the rules described in section 1.;
- employment income tax (second category tax) is levied on employment income;
- individual income tax (complementary tax) is levied on the total taxable income derived by individuals, including income liable to business income tax or second category tax, at progressive marginal rates. Business income tax and/or employment income tax paid are creditable against the individual income tax;
- non-resident income tax is levied on Chilean-source income derived by non-residents or domiciled persons, generally when the income is made available.

2.1.3. Personal deductions, allowances and credits

Taxpayers may deduct from their taxable income:
- interest paid during the taxable year on mortgages for the acquisition or construction of dwellings up to a maximum amount which varies, depending on the annual gross income of the person; and
- voluntary pension savings (within certain limits).

Taxpayers may credit the amount of education expenses for children (up to 25 years old) up to certain thresholds.
Taxpayers may credit a certain percentage of gains derived from the redemption of shares in certain investment funds and of gifts made for cultural or sports purposes.

### 2.1.4. Rates

#### 2.1.4.1. Income and capital gains

Individual income tax and employment income tax are levied at the following rates:

<table>
<thead>
<tr>
<th>Tax base (annual tax units)</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 13.5</td>
<td>0</td>
</tr>
<tr>
<td>13.5 – 30</td>
<td>4</td>
</tr>
<tr>
<td>30 – 50</td>
<td>8</td>
</tr>
<tr>
<td>50 – 70</td>
<td>13.5</td>
</tr>
<tr>
<td>70 – 90</td>
<td>23</td>
</tr>
<tr>
<td>90 – 120</td>
<td>30.4</td>
</tr>
<tr>
<td>Over 120</td>
<td>35</td>
</tr>
</tbody>
</table>

Neither surtaxes nor surcharges apply.

#### 2.1.4.2. Withholding tax

Income from employment is normally subject to a final monthly tax withheld by the employer. In case the employee has income other than employment income (except income from specific investments) or income from other employment, he must recalculate the tax or declare his income by filing an annual income tax return. In such case the monthly withholding tax on employment income is credited against the final income tax liability.

Income from an individual’s independent activities (e.g. professional income) is subject to withholding tax, or to monthly provisional payments made by the individual, at the rate of 10%; both of which are creditable against final individual income tax liability.

Fees and participations in profits derived by members of boards of directors or advisory boards are subject to withholding tax at a rate of 10%, which is creditable against the final individual income tax liability.

### 2.2. Other taxes on individual income

Chile does not levy any other tax on income.

### 2.3. International aspects

#### 2.3.1. Resident individuals

Resident or domiciled persons are subject to income tax on their worldwide income.

Foreign-source income and capital gains are, in general, fully taxable. Only net income is considered excluding income that is not available for reasons of force majeure or legal provisions of the country of origin.
Foreign pensions are not considered income.

2.3.2. **Non-resident individuals**

2.3.2.1. **Taxable income**

In general, a non-resident is taxed on Chilean-source income only. Non-residents deriving Chilean-source income are subject to a final withholding income tax at the general rate of 35% on the gross amount derived (non-resident income tax), but several specific rates apply (see section 1.3.3.2.).

Chilean-source business and professional income derived by non-residents is taxable, without considering if the non-resident has a permanent establishment, branch or representation office.

If the non-resident carries on a trade or business in Chile, he would normally be subject to business income tax under ordinary rules discussed in section 1. The non-resident would also be subject to a second-tier taxation or non-resident income tax normally charged at 35%. The business income tax previously paid with respect to that income is credited against the non-resident income tax.

2.3.2.2. **Withholding tax**

The withholding taxes described for non-resident companies apply also to Chilean-source income derived by non-resident individuals (see section 1.3.2.2.).

3. **Taxes on Capital**

3.1. **Net wealth tax**

Chile does not levy net wealth tax.

However, business licence fees, normally calculated as a percentage of capital, must be paid annually to the municipalities (*patente municipal*). The tax is assessed on the initial capital declared by the taxpayer in the case of new activities or the capital registered in the balance sheet ending on 31 December of the year preceding the date on which the return must be filed. Capital invested in other businesses or enterprises, also subject to payment of the licence fees, is deductible. The total amount of the licence fee due is paid proportionally by each branch, office or establishment, according to the number of employees. The tax rate varies according to the municipality and location within the municipality and ranges from 0.25% to 0.5%. It may not be less than one tax unit nor exceed 8,000 tax units.

3.2. **Real estate tax**

An immovable property tax is levied on an annual basis on urban or rural immovable property. Taxable persons are the owners or users of the property. The taxable base is the official cadastral value. An exemption is granted for properties whose cadastral value does not exceed a certain limit.

For urban property used as dwelling house the rate is 1.088%. Rural land is taxed at a rate of 0.86%.
Chile

Farmers and owners or usufructuaries that lease property may credit the tax against their liability to business income tax. In the case of non-agricultural property, the tax is creditable only if (i) the taxpayer is subject to business income tax on actual income not determined according to full accounting records and (ii) the transaction does not take place between related parties. Non-creditable immovable property tax is deductible for income tax purposes.
1. Taxes on Corporate Income

1.1. Corporate income tax

Corporate profits are subject to corporate income tax.

Entities subject to corporate income tax include joint-stock companies (spółka akcyjna, S.A.), limited liability companies (spółka z ograniczona odpowiedzialnościa, sp. z o.o.), limited joint-stock partnerships (spółka komandytowo-akcyjna, S.K.A.), state enterprises (przedsiębiorstwo państwowe) and cooperative enterprises (spółdzielnia). Companies “under formation” are also considered taxable persons if they commence economic activities before they become fully registered. Polish and EEA investment funds (fundusz inwestycyjny), except closed-end investment funds (fundusz inwestycyjny zamknięty), and pension funds (fundusz emerytalny) are exempt from corporate income tax. Polish partnerships, other than limited joint-stock partnerships, are transparent and as such, non-taxable legal entities; their partners are taxed individually on their share of the profits. Foreign partnerships are treated as taxable legal entities subject to corporate income tax in Poland if they are treated as legal entities taxed on the worldwide income in their country of residence.

1.1.1. Residence

A company is resident in Poland for tax purposes if its legal seat or place of management is located in Poland.

1.1.2. Taxable income

Resident entities are taxed on their worldwide income. Income and capital gains are pooled and taxed at the same rate, except income from profit participations, which is defined as “gains from capital” and taxed separately. Although receipts are generally treated as income once they become due and payable, a cash accounting method applies to interest.

Certain types of income of resident companies are exempt from income tax, such as qualified dividends, subventions from national or local authorities, and certain grants from foreign governments and international organizations.

From 1 January 2019, non-realized gains upon emigration of a company are subject to exit tax.

1.1.3. Losses

Losses may be carried forward for 5 years; up to 50% of the loss may be set off in each year. Subject to certain exceptions, loss carry-forward is not allowed in the case of a merger, division or takeover. Loss carry-back is not allowed. Capital losses on fixed business assets are deductible from ordinary business income. From 1 January 2019, an immediate set-off of losses in a given tax year is possible up to an amount of PLN 5 million. Losses can only be offset against income from the same source.
1.1.4. Rates

1.1.4.1. Income and capital gains

The corporate income tax rate is 19%. With effect from 1 January 2019, a lower corporate income tax rate of 9% applies to small taxpayers (with annual turnover, including VAT, not exceeding EUR 1.2 million) and start-ups. A 50% rate of tax may apply to income re-assessed by the tax authorities under the transfer pricing regulations. Under the patent box regime introduced as from 1 January 2019, qualified income derived from intellectual property (IP) rights may be subject to 5% corporate income tax.

1.1.4.2. Withholding tax

Dividends distributed by a resident entity are subject to a 19% withholding tax, which is final. The dividend income can be exempt from withholding tax if the dividend recipient, being an entity subject in Poland or another EEA country to corporate income tax on its worldwide income or a foreign permanent establishment of such an entity, holds at least 10% of the shares in the payer’s capital for a minimum of 2 years. Similarly, dividends paid to a Swiss parent company can be exempt from withholding tax; however, the shareholding threshold in that case amounts to 25%. General partners of limited joint-stock partnerships are excluded from the benefit of the participation exemption.

In addition, a 19% withholding tax is levied on income derived from the redemption of shares and the buy-back of shares in order to redeem them, except for shares acquired by way of a contribution in kind of an enterprise or part of an enterprise, and the increase of share capital from the company’s profits (including the capitalization of reserves and provisions created from the company’s profits). On a merger or division, a 19% withholding tax is levied on the cash compensation received by the shareholders of the absorbed, merged or divided company. Also, redistributed proceeds upon the company liquidation are subject to 19% withholding tax. There is no withholding tax on interest and royalties paid to resident companies.

1.1.5. Incentives

The following incentives are available:

- accelerated depreciation in respect of certain new fixed assets or for eligible small taxpayers or starters;
- research and development incentives;
- investment credit for small and medium-sized companies;
- tonnage tax regime;
- patent box regime; and
- incentives for new investments or creating new jobs.

1.1.6. Intercompany dividends and group treatment

Intra-group dividends paid to members of a tax group may be exempt if the participation exemption criteria are met.

Resident companies, each with a share capital (or an average share capital) of at least PLN 500,000, may form a tax group. Certain requirements also apply, inter alia: (i)
the parent company must own 75% of the shares of the subsidiaries; (ii) the subsidiaries may not own shares of the other companies in the group; (iii) the companies may not be exempt from corporate income tax; and (iv) the total net income of the tax group after deducting expenses must be at least 2% of the total gross income of all companies forming the tax group.

1.2. Other taxes on corporate income

Banks, credit institutions and insurance companies are subject to a tax on financial institutions. The tax is charged at the rate of 0.0366% applicable to the taxable base, which is the total value of assets exceeding PLN 4 billion (for domestic banks, branches of foreign banks, branches of credit institutions, and cooperative savings and credit institutions) or PLN 2 billion (for domestic insurance and reinsurance companies, branches of foreign insurance and reinsurance companies, and main branches of foreign insurance and reinsurance companies).

1.3. International aspects

1.3.1. Resident companies

Resident entities are subject to income tax on their worldwide income. Foreign-source business income and capital gains are aggregated with other income and taxed in the same manner as domestic income. Foreign dividends, interest and royalties are included in the corporate income taxable base and taxed under the general rules.

Under the domestic law implementing the provisions of the EU Parent-Subsidiary Directive (2011/96/EU), dividends derived by a Polish parent company from an EEA (EU Member States and Iceland, Liechtenstein and Norway) or a Swiss subsidiary are exempt if the parent holds at least 10% (25% in the case of a Swiss subsidiary) of the shares in the subsidiary continuously for at least 2 years. The exemption does not apply if the dividends were deducted from or in any other way decreased the taxable base of the subsidiary, are pertaining to an agreement, transaction or activity that does not reflect business reality and has a fictitious character, or are paid as a result of a liquidation of the distributing company.

Unilaterally, double taxation is relieved by an ordinary tax credit. In respect of dividends, if a resident parent company holds for an uninterrupted period of a minimum of 2 years 75% or more of the voting rights in a subsidiary resident in a country with which Poland has concluded a tax treaty, a credit is given for any foreign withholding tax and for the underlying foreign corporate income tax. Where a tax treaty applies, the treaty relief is mandatory.

Profits of controlled foreign companies are subject to tax in Poland under the CFC regime.

From 1 January 2019, non-realized gains upon emigration of a company are subject to an exit tax of 19%. 

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1.3.2. Non-resident companies

1.3.2.1. Taxable income

Non-resident entities are subject to tax on their Polish-source income and capital gains, generally, according to the same rules as apply to residents. Interest/discount on and capital gains from the disposal of certain corporate bonds and treasury bonds offered on foreign stock markets are exempt from tax.

If the taxable income derived by a non-resident cannot be accurately determined from the taxpayer’s financial records, it is estimated as a percentage of turnover as follows:

- wholesale and retail: 5%;
- construction, assembly and transport activities: 10%;
- agency activities where the compensation is set as a commission: 60%;
- services of lawyers and experts: 80%; and
- other activities: 20%.

This method to establish taxable income is not applied if a tax treaty provides otherwise.

Certain types of income of non-residents are subject to a final withholding tax.

1.3.2.2. Withholding tax

Dividends, interest and royalties paid to non-residents are subject to a final withholding tax levied on the gross income. The rates are 19% for dividends, and 20% for interest and royalties. Different rates may apply under tax treaties.

Under the domestic law implementing the provisions of the EU Parent-Subsidiary Directive (2011/96/EU), dividend distributions by Polish subsidiaries to their EEA (EU Member States and Iceland, Liechtenstein and Norway) or Swiss parent companies are exempt from withholding tax if the parent holds at least 10% (25% in the case of a Swiss parent) of the shares in the subsidiary for an uninterrupted period of at least 2 years. The exemption does not apply if the dividends or other profit distributions are pertaining to an agreement, transaction or activity that does not reflect business reality and that has a fictitious character. Under the domestic law implementing the EU Interest and Royalties Directive (2003/49/EC), the rate on interest and royalties is 0%. The rate applies, provided that the recipient is an associated company of the paying company and is resident in another EU Member State. Two companies are “associated companies” if (i) one of them holds directly at least 25% of the capital of the other or (ii) a third EU company holds directly at least 25% of the capital of the two companies. An uninterrupted minimum holding period of 2 years is required; this condition can also be met after the payments are made.

In addition, a final withholding tax is levied on the gross amount of certain other types of income of non-residents at the following rates:

- 10% on income derived by maritime enterprises from the transportation of goods and passengers from Polish harbours (except for transit);
- 10% on income derived by air transport enterprises from Poland;
Taxes on Individual Income

- 20% on income derived from intangible services, including advisory services, accounting, advertising, data processing, market research, recruiting, and management and control services; and
- 20% on income derived by enterprises from entertainment or sports activities in Poland.

1.4. Anti-avoidance

1.4.1. Thin capitalization

Taxpayers are entitled to deduct from their taxable base interest expenses up to 30% of their EBITDA. As a derogation to the general rule, this limitation only applies if the excess is greater than PLN 3 million in a tax period (i.e. up to PLN 3 million in borrowing costs in excess of this 30% limit is deductible). The excess of the borrowing costs may be carried forward without a limitation.

1.4.2. Controlled foreign company

Under the Polish CFC regime, income derived by a CFC is (partly) attributed to the resident taxpayer (shareholder) and taxed in Poland if the following criteria are met jointly:
- the taxpayer holds directly or indirectly at least 50% of the share capital, voting rights or share in profits of the foreign company for an uninterrupted period of a minimum 30 days in the tax year;
- at least 33% of the foreign company’s income is derived from passive income; and
- such passive income is subject to corporate income tax in the country of the CFC’s seat or place of management if the tax actually paid is lower than the difference between (i) the corporate income tax that would have been charged on the CFC under the Polish tax system and (ii) the actual corporate income tax paid by the CFC.

The CFC income attributable to the Polish taxpayer is computed pro rata to the period in which the Polish taxpayer holds the qualified shares, and in proportion to its share in profits in the CFC, after the deduction of previously included in the taxpayer’s taxable base dividends received from the CFC and proceeds from the disposal of the shares in the CFC, to the extent that they were included in the taxpayer’s taxable base. The general 19% rate of corporate income tax applies to the taxable base so computed. The CFC regime does not apply to a non-resident company if it is established and subject to tax on worldwide income in an EU Member State or EEA country, provided it meets the genuine business activity test.

2. Taxes on Individual Income

2.1. Individual income tax

Individuals are liable to individual income tax. Partnerships, except limited joint-stock partnerships, are transparent entities; as such their profits are taxed in the hands of the partners.
2.1.1. **Residence**

An individual is considered to be a resident for income tax purposes if his centre of personal or economic interest (centre of vital interest) is located in Poland or his stay in Poland exceeds 183 days in a tax year.

2.1.2. **Taxable income**

The law lists the following categories of income:

- income from dependent services, including employment and pension income;
- income from independent services;
- income from business;
- income from particular agricultural sectors;
- income from immovable property (rental income);
- income from investments and property rights (investment income);
- income from the sale of immovable property, property rights and movables;
- income from a controlled foreign company;
- unrealized gains upon emigration; and
- other income.

Tax is generally levied at progressive rates on the aggregate net income from all categories after accounting for deductions. However, certain income items are taxed separately at flat rates.

Income from dependent services includes all kinds of remuneration and benefits in kind received with respect to employment, and pensions.

Income from independent services includes, in particular, income from the independent activities of professionals, income from independently performed artistic, literary, scientific, educational and journalistic activities, and remuneration of members of management committees, boards of directors or other decision-making bodies of legal entities.

Receipts derived as a result of business operations are treated as business income. Taxpayers may opt for a 19% flat-rate taxation of business income.

Dividends and interest are subject to a final withholding tax. Royalties are subject to a provisional withholding tax. Income from immovable property (rental income) is included in aggregate taxable income and taxed at progressive rates after deducting actual expenses; however, individuals deriving rental income may opt for flat-rate taxation at the rate of 8.5% applied to the gross rental income up to PLN 100,000 and 12.5% applied to income exceeding that threshold.

Capital gains are included in taxable income as either investment or business income, as the case may be. Capital gains from the sale of shares and other securities are taxed separately at a flat rate of 19%.

Capital gains from the sale of immovable property are taxed separately at a flat rate of 19%. Such gains are exempt, however, if the taxpayer has owned the property for at least 5 years. Furthermore, such gains may also be exempt if the money is used within 3 years for the purposes listed in the law, including the acquisition of immovable property in Poland or another EEA country or Switzerland to be used for the
taxpayer’s own purposes, the renovation or reconstruction of the taxpayer’s own dwelling and the payment of the mortgage loan or refinancing credit.

### 2.1.3. Personal deductions, allowances and credit

An annual standard deduction from income from dependent services, other than pensions, is allowed in the amount of PLN 1,335 (PLN 2,002.05 for income derived from more than one employer, or PLN 1,668.72 if the taxpayer resides outside the place where the employer’s seat is located).

Additionally, deductions are available (subject to a maximum) for:
- contributions to pension and disability insurance up to a maximum deduction of PLN 16,096 (in 2019);
- contributions to sickness and maternity insurance;
- contributions to individual pension accounts (IKZE) up to a maximum deduction of PLN 5,718 (in 2019);
- donations to religious and public organizations (up to 6% of the annual income); and
- social security contributions and expenses incurred for revalidation purposes of the taxpayer or a dependent disabled person.

A progressive, income-dependent personal allowance applies. The annual income is decreased by the personal allowance calculated in the following way:

<table>
<thead>
<tr>
<th>Income (PLN)</th>
<th>Personal allowance (PLN)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 8,000</td>
<td>1,440</td>
</tr>
<tr>
<td>8,000 – 13,000</td>
<td>883.98 × (taxable base – 8,000) : 5,000</td>
</tr>
<tr>
<td>13,000 – 85,528</td>
<td>556.02</td>
</tr>
<tr>
<td>85,528 – 127,000</td>
<td>556.02 × (taxable base – 85,528) : 41,472</td>
</tr>
<tr>
<td>Over 127,000</td>
<td>0</td>
</tr>
</tbody>
</table>

A tax credit is available to taxpayers who have minor children, or children under the age of 25 who continue to study. The amount of credit depends on the number of children and, in the case of an only child, also on the level of income of parents. For families and single parents with two or more children, no income threshold applies. The following are the monthly tax credit amounts:
- PLN 92.67 for families and single parents with one child, and an income not exceeding PLN 112,000 (PLN 56,000 for cohabiting parents);
- PLN 92.67 per child for families and single parents with two children;
- PLN 166.67 for families and single parents for the third child (the tax credit for the first two children remains PLN 92.67 per child); and
- PLN 225 for families and single parents for the fourth and any additional child (the tax credit for the first two children remains PLN 92.67 per child).

A tax credit of 1% of the annual tax liability is allowed for donations to one of the qualified public organizations.

A tax credit is allowed for contributions to the mandatory health insurance (7.75% of the taxable base).
2.1.4. Rates

2.1.4.1. Income and capital gains

Income tax is levied on the aggregate taxable income after application of the personal allowance (see section 2.1.3.):

A flat rate of 19% applies to capital gains from the sale of shares and other securities and optionally to business income.

From 1 January 2019, a solidarity tax of 4% is imposed on individual taxpayers whose annual income exceeds PLN 1 million.

From 1 January 2019, a tax rate of 5% applies to qualified income under the patent box (IP) regime.

2.1.4.2. Withholding tax

A final withholding tax of 19% applies to domestic dividends and interest.

Salaries and other remuneration paid to employees, as well as pensions and certain social distributions are subject to an 18% withholding tax. An 18% withholding tax is levied on income from certain independent services and royalties, provided that the payer is an entrepreneur. These taxes are not final and are credited against the taxpayer’s final tax liability.

2.2. Other taxes on individual income

Small-scale business activities of individuals with turnover of the preceding year lower than EUR 250,000 (PLN 1,069,875 in 2019), or starters, may opt for flat-rate taxation. The taxable base is the turnover. The tax rate may vary between 3% to 20%, depending on the type of activity.

2.3. International aspects

2.3.1. Resident individuals

Resident individuals are subject to income tax on their worldwide income. Foreign-source employment income, business income and capital gains (in general) are aggregated with other income and taxed in the same way as domestic income. Capital gains from the sale of securities issued abroad, however, are taxable separately at the flat rate of 19%. Dividends and interest derived from abroad are subject to a final 19% withholding tax. Foreign-source royalties are added to the total income and are taxed under the general rules. Profits of foreign companies that are controlled by resident individuals and as such qualifying for the application of the CFC regime may be subject to tax in Poland.
Taxes on Capital

From 1 January 2019, an exit tax of 19% applies to unrealized gains upon emigration of individuals if the total market value of their assets transferred outside the territory of Poland exceeds PLN 4 million. Under certain conditions, the rate of exit tax is 3%.

Unilaterally, double taxation is relieved by means of an ordinary credit. Where a tax treaty applies, the treaty relief is mandatory.

2.3.2. Non-resident individuals

2.3.2.1. Taxable income

Non-resident taxpayers are subject to tax only on Polish-source income and, generally, according to the same rules as apply to residents. Interest on and capital gains from the sale or exchange of certain corporate bonds and treasury bonds quoted on foreign stock markets are, however, exempt.

If the taxable income derived by a non-resident cannot be accurately determined from the taxpayer’s financial records, it is estimated as a percentage of turnover (see section 1.3.2.1.).

2.3.2.2. Withholding tax

The following income of non-residents is subject to a final withholding tax:
- dividends at 19%;
- interest at 20%;
- royalties at 20%;
- directors’ remuneration at 20% (under certain conditions);
- income derived from provision of advisory services, accounting, advertising, data processing, market research, recruiting and management and control services, at 20%;
- income from independent services at 20%; and
- income earned in Poland by enterprises from entertainment or sports activities at 20%.

3. Taxes on Capital

3.1. Net worth tax / net wealth tax

There is no net worth tax.

3.2. Real estate tax

Real estate tax is levied on property located in Poland. It is an annual local tax. The taxable base for all buildings is the floor area of the building. For land, it is the area. For fixed installations, the depreciation value is taken into account.

The tax rates, which are fixed by the municipal councils, may not exceed a specified maximum amount. A tax is imposed on commercial properties (buildings) that are owned or co-owned by a taxpayer and are used for commercial purposes (i.e. leased or rented out). The tax rate of 0.035% applies to the taxable base computed as the surplus of the aggregate value of all commercial properties owned or co-owned by the taxpayer over PLN 10 million.
Contact

IBFD Head Office
Rietlandpark 301
1019 DW Amsterdam
P.O. Box 20237
1000 HE Amsterdam
The Netherlands

Tel.: +31-20-554 0100 (GMT+1)
Email: info@ibfd.org
Web: www.ibfd.org