

Investment and Joint Ventures

The Legal Framework for Foreign Investment in Poland

As a result of a series of recent reforms, Poland now has a remarkably liberal investment regime. Some of the most important legal aspects of investing in Poland are:

- no minimum investment required from a foreign partner;
- no official permission needed for the establishment of a joint venture, except those involving the operation of sea ports and airports, real estate agencies, wholesaling of imported consumer goods, or the defence industry;
- no limits on transfer abroad of after-tax revenues, income from the sale of shares, income from the liquidation of a company, or salaries for foreign employees;
- no turnover tax on supplies or equipment for investments;
- no limits on how much of a Polish joint venture can be foreign-owned;
- no permission needed to buy shares in privatized Polish enterprises;
- tax exemptions on reinvested earnings;
- tax exemptions on funds set aside to buy shares in privatized Polish enterprises;
- tax exemptions possible on investments amounting to more than 2 million ECUs;
- customs exemptions in case of in-kind contribution to the capital of a company in Poland;
- guarantee of automatic compensation for damages resulting from expropriation or similar actions by the government;
- losses can be carried forward for three years; and
- accelerated depreciation.

Poland welcomes foreign investment that supports economic reform and the privatization program. The country needs this investment in the form of capital, technology, managerial expertise, and marketing know-how. It is especially interested in long-term commitments from foreign investors willing to build on the advantages of Poland's lower labour costs and skilled human resources. Investment by western companies is seen to be a way of restructuring and modernizing Polish industry, improving overall working conditions and increasing the competitiveness of Polish exports. In particular, joint ventures between western and Polish companies are seen as a means of stimulating higher value-added and competitive production in Poland.

In 1986, the Polish government passed a Foreign Investment Law that encouraged joint ventures between foreign companies and state-owned Polish firms. This legislation, however, restricted foreigners to no more than 49% of the venture and stipulated that up to 25% of all foreign exchange earnings had to be resold to the Polish government at the official exchange rate. A new law approved in December 1988 allowed western partners to own up to 100% of a proposed venture and permitted them to repatriate those profits derived from exports.

The Legislative Framework

Since 1986, the legislative framework governing foreign investment has undergone drastic reform. Legislative changes, introduced in the middle of 1991, have given the country a remarkably liberal investment regime. Most significant restrictions on foreign investment have been lifted, and efforts are being made to establish an investment regime that approximates those in the advanced industrialized countries (see sidebar). At the same time, the tax system has been modernized and simplified. Many exemptions have been abolished in order to create a level playing field for both foreign and Polish companies.

Despite these levelling measures, Poland still maintains some incentives intended to facilitate and encourage foreign investment. For example, reinvestment in a company, or donations to social projects, can earn reductions of up to 10% in the tax rate. Expenditures on capital improvements, whether on construction and modernization of buildings or purchase of pollution control equipment, are also tax deductible.

Foreign shareholders in a joint venture are subject to an income tax of 30% on company dividends if those dividends are taken out of the country. In 1989, however, Poland signed an agreement on the avoidance of double taxation with more than twenty nations, including the US, Canada and the UK. As a result, the taxes payable in Poland may be significantly lower.

