Chapter 5
Value added tax, customs and excise duties and energy taxes

5.1. Value Added Tax

5.1.1. Introduction

Value added tax was introduced in Poland on 5 July 1993 with a tax on goods and services and excise duty. Significant changes were introduced when Poland joined the European Union on 1 May 2004. The Polish Parliament adopted the new VAT Act (VAT Act) on 11 March; it was signed by the president on 26 March 2004 and published on 5 April 2004.

5.1.2 VAT liability

Taxable persons performing taxable activities in Poland are liable to Polish VAT. Taxable persons are defined as legal entities, organizational units and natural persons who individually carry on economic activity, regardless of the purpose or results of such activity. Economic activity includes any activities of manufacturers, traders or service providers, including the taxable person's acquisition of natural resources, and farmers, as well as the activity of persons practising free professions, including when the activity is only performed once in circumstances indicating an intention to perform such activities frequently.

The following are subject to VAT:

- Supply of goods for consideration and provision of services for consideration in Poland;
- Export of goods;
- Import of goods;
- Intra-community acquisition of goods for remuneration in Poland;
- Intra-community supply of goods.
5.1.3. VAT registration in Poland

Businesses with a total annual turnover in the previous tax year of the equivalent in PLN of EUR 10,000 or more (PLN 39,200 in 2005) are required to register for and charge VAT. Businesses with total annual sales in the previous fiscal year of less than the equivalent of EUR 10,000 are not required to register for VAT, unless their sales for the particular year exceed the registration threshold, at which point they must charge VAT. Businesses not obliged to register as VAT payers and to charge VAT may still elect to do so if they prefer.

An entity should register using the official VAT-R registration form plus the appendix VAT-R UE before performing an intra-community transaction. On the basis of this, a taxpayer will be registered as an EU VAT payer and be included in the pan-European VIES database.

Taxpayers applying for EU VAT registration have to pay a guarantee deposit if they have not carried on VAT-liable activity for at least 12 months prior to applying for the EU VAT registration in order to get the direct refund of excess input VAT in 60 days. Otherwise, the extended period for the refund will be 180 days. The deposit amounts to PLN 250,000 and will be returned upon application made by the taxpayer after 12 months of timely filing of VAT returns and timely settling of VAT liabilities. A notification of registration must be submitted to the relevant tax office prior to commencing VAT liable activities. The tax office confirms the notification and issues an identification number for the taxpayer.

5.1.4. VAT exemptions

As of 1 May 2004, the Polish tax provisions provide specific exemptions from VAT for certain goods and services including

- Financial services,
- Services relating to education, housing and public postal services
- Some cultural services provided by individuals,
- Imports of goods exempt from customs duty,
- Sale of used goods (provided the seller is not entitled to deduct input VAT).

Sale of VAT-exempt goods and services does not give the right to deduct input VAT.

5.1.5. Taxable turnover

The tax base is the turnover, calculated on the basis of the sales price of goods and services, reduced by the amount of tax. Turnover also includes grants, subventions and other payments of a similar character if they directly influence the price of goods supplied or services provided. When advance payments, earnest money, prepayments or instalments have been
collected, the turnover also includes the amount of advance payments, pre-
payments or instalments received reduced by the amount of tax falling to
them. The turnover may be reduced by properly documented, legally ac-
ceptable or obligatory discounts, or by the value of returned goods and re-
turned undue amounts as well as amounts resulting from corrected in-
voices. The VAT tax base is different in the case of import of goods, reflect-
ing the customs value of the goods increased by customs duty, excise tax
and costs of commission, insurance and transport to their first destination
in Poland.

Agency contracts, etc.
In a situation where activities are provided under an agency contract, a
contract of mandate, a brokerage contract or a contract for commission
sale, the taxable base is otherwise defined for both parties to the contract
as follows:

– For the principal or mandatory - the amount due from a sale or con-
tract for commission sale, reduced by the amount of tax, and
– For the agent, mandatory or other person providing services of a si-
milar nature – the amount of commission (or other form of remu-
neration for providing services), reduced by the amount of tax.

5.1.6. VAT rates
Based on the VAT Act, four Polish VAT rates apply. The standard VAT rate
imposed in Poland is 22%; the preferential VAT rate is 7%. There is also a
temporary super-reduced rate of 3%. In addition, a 0% VAT rate applies
mainly to exports of goods and intra-community supplies of goods.

Standard rate
The Polish standard rate of 22% is a default rate, thus covering all goods
and services not subject to lower rates.

7% VAT rate
The 7% VAT rate covers a broad range of goods and services. It is applied,
principally, to the sale of:

– Certain building and construction services relating to housing for in-
dividuals and restaurant services (for a transitional period, then
22% will be applied)
– Pharmaceuticals and medical equipment,
– Some processed food,
– Passenger transport,
– Hotel accommodation,
Some goods for infants.

3% VAT rate

The 3% VAT rate applies mainly to agricultural products, such as milk and dairy products, raw meat, poultry, fish and some agricultural services. This rate will only be applicable for a transitional period, that is until the end of April 2008. All products currently subject to 3% VAT will be subject to 7% VAT as of 1 May 2008.

0% VAT rate

The 0% VAT rate applies to exports of goods and the intra-community supply of goods. In addition, it applies to transportation services related to the import and export of goods to and from the EU. It also applies to some goods and services such as delivery in Poland and intra-community acquisitions of books (with ISBN codes) and professional periodicals as well as import of books and booklets (with ISBN codes) and professional periodicals during the transitional period until the end of 2007. The 0% VAT rate gives the right to deduct input VAT.

5.1.7. VAT declaration

The obligation to pay VAT arises when goods are supplied, exchanged or donated, or services are rendered. The sale of goods or the rendering of services must be proven by an invoice, and the tax obligation arises (with some exceptions) when the invoice is issued, although this can be no later than seven days after the date on which the goods were supplied or the services rendered.

Exports

In the case of exports, the tax obligation arises when the border customs office confirms that the goods have been shipped across the Polish border.

Imports

In the case of import of goods, the tax obligation arises when the customs debt arises.

When services rendered in person – through an authorised agent, through employees, or by means of a permanent establishment or device used for carrying on production or services – are imported or goods supplied, the taxpayer is either the foreign entity [if registered voluntarily for VAT purposes] or the service recipient.

Intra-community supply of goods

In respect of the intra-community supply of goods, the tax liability arises on the 15th day of the month following the month in which the supply of goods was effected. If the taxpayer issues an invoice before the lapse of the time limit, the tax obligation arises when the invoice is issued.

Prepayments
If payment is made as an advance, deposit or instalment, part of the tax obligation arises when the payment is received.

**Settlement period**

In principle, VAT is declared and paid on a monthly basis. Small taxpayers (whose sales have not exceeded EUR 800,000 in the previous year, or EUR 30,000 for brokerage, agency and other similar services, with exception of commission sales) can settle VAT on a cash basis and file tax returns quarterly. The VAT return should be filed and tax paid within 25 days of the end of the month/quarter. VAT on imports should generally be paid within 10 days from the date of import. However, under some conditions (in case the goods are placed under the simplified procedure in Poland) the payment can be delayed until the 16th day of the month following the settlement period.

If the taxpayer only performs intra-community acquisition of new means of transport, the VAT return and the tax payment should be filed with the tax office within 14 days from the date when the tax liability arose.

Understating output tax or overstating input tax or the amount of excess input tax may result in a penalty of 30% of the misstatement, unless the taxpayer corrects his return and pays the amount resulting from the change together with interest for late payment before a control check is initiated by the tax authorities.

### 5.1.8. Polish invoice requirements

According to Article 106 of the VAT Act, taxpayers must issue invoices confirming the following: sale, date of the sale, net unit price, tax base, tax rate, tax due, total amount due and information about seller and acquirer. An invoice should also be issued when partial payment is made before the goods are dispatched or the services rendered. The taxpayer is not obliged to issue invoices to a natural person who does not perform business activities. However, an invoice should be issued on request.

Internal invoices should be issued for intra-community acquisitions, imports of services and supplies of goods and services for the private use of a taxpayer, his staff or shareholders and any other supply of goods and services for no consideration for purposes other than those of his business. Additionally, internal invoices should be issued for the purpose of documenting the return of subsidies, subventions and other payments of a similar nature.

### 5.1.9. VAT compliance

According to Polish VAT law, taxpayers are obliged to keep VAT records. Care should be taken to ensure that invoices and credit notes are made according to the strict guidelines, that records are presented in a way acceptable to the authorities, and that the VAT return is properly completed.

The VAT registers should contain the following data:

- Separately shown amounts of input VAT connected with taxable and exempt sales,
- Data necessary to determine what is subject to VAT (for example delivery of goods, supply of services) and the tax base,
• The amount of output VAT,
• The amount of input VAT deductible from output VAT,
• The amount of VAT payable to the tax office, refunded or carried forward,
• Other data necessary to prepare the VAT return.

If the reporting system does not fulfil these requirements and does not provide the amounts and data to be transferred to the monthly VAT returns, negative VAT consequences may arise.

5.1.10. VAT deduction

VAT qualifying for recovery
In general, a taxpayer registered for VAT purposes in Poland is entitled to reduce his output VAT (resulting from sales) by the amount of input VAT incurred on purchases of goods and services related to the taxpayer’s VAT-liable supplies.

The period during which input VAT may be recovered is strictly defined in the Polish VAT regulations, which state that input VAT may be reclaimed:
• In the VAT return for the period when the VAT invoice or customs documentation (SAD) is received,
• In the VAT return for the period when the VAT liability arises for imports of services or intra-community acquisitions of goods when the goods are acquired locally from a foreign entity at which Polish VAT is accounted for using the reverse charge mechanism
• Not earlier than in the month when the right of disposal of the goods is acquired, the services are completed, or the invoice confirming receipt of a taxable prepayment [advance payment, instalment] is received (this does not relate to intra-community acquisitions and imports of services).

Input VAT may also be deducted during the following period:
• If the taxpayer has not recovered his input VAT during the above-mentioned periods, he may correct his VAT settlements within five years from the beginning of the year in which he obtained the right to recover input VAT.
• If input VAT exceeds output VAT in a particular month, the taxpayer may reduce the amount of output VAT by this tax credit in a subsequent settlement period or ask for the direct refund of the surplus to his bank account.

Partially exempt taxpayers
Initially, the taxpayer should apply the proportion from the previous year to the current year.
When the tax year has ended, the taxpayer is obliged to make a correction of the input VAT deducted according to the taxable and non-taxable sales ratio generated in the previous fiscal year. The correction should be made on the VAT return submitted for the first settlement period of the calendar year.
If input VAT relates to the purchase of fixed assets which are used to make both taxable and exempt sales, the taxpayer is required to correct the
amount of recovered VAT over the next 5 years (10 years if it concerns real estate) if the ratio differs from this in the year of acquisition. The correction only needs to be done if the exempt supplies amount to at least 2% of the taxpayer's total supplies.

**VAT recovery terms**

The Tax Office should refund the surplus input VAT to the taxpayer’s bank account within 60 days of the submission of the relevant VAT return if input VAT results from the purchase of fixed assets and intangibles. This refund can be increased by 22% of the taxpayer’s turnover subject to rates lower than 22%. The remaining input VAT surplus should be refunded within 180 days.

The surplus subject to 60-day reclaim may be refunded within 25 days of application if:

- All purchase invoices and customs documents included in the VAT return have been paid,

- The input VAT results from intra-community acquisitions of goods, import of services or delivery of goods for which the purchaser is the taxpayer and output VAT was declared on the same VAT return.

A taxpayer who has been VAT-registered for less than one year and who has not paid the deposit guarantee of PLN 250,000 receives all refunds of input VAT within 180 days.

**Partly recoverable and unrecoverable VAT**

**Partly recoverable VAT**

Polish input VAT can be partly recovered on passenger cars and other vehicles with a loading capacity below a certain limit. The refund is limited to 60% of the input tax subject to a maximum amount of PLN 6,000 for one car.

**Unrecoverable VAT**

Polish input VAT cannot be recovered if it is incurred on

- Fuel for passenger cars or other vehicles with a loading capacity below a certain limit,
- Accommodation and restaurant services,
- Purchases of goods and services when the expense is not tax deductible for income tax purposes.

**5.1.11. VAT representative**

Taxpayers without a registered office, permanent place of carrying on activity or permanent place of residence in Poland or another EU country and who are subject to the duty to register as active VAT payers must appoint a VAT representative (fiscal representative). The fiscal representative is jointly and severally responsible for the tax liability of the taxpayer represented.
Based on the provisions of the ministerial decrees, the fiscal representative must
- be an entity registered for VAT,
- have settled his/its VAT liability in a timely manner for the previous 24 months,
- be authorised to provide professional tax advisory services or bookkeeping services.

Furthermore, no fiscal penal proceedings must have been initiated against representatives [directors, chairman, chief accountants, shareholders] of the fiscal representative.

5.2. Excise and energy taxes

5.2.1. Liability to pay excise and energy taxes, excise payers

Various products are subject to excise tax: fuels, wines, beers, spirits and tobacco products (so-called “harmonised excisable goods”) passenger cars, perfumes and electricity (so called non-harmonised excisable goods”).

The following are liable to excise tax:
- Manufacture of harmonised excise goods;
- Dispatch of harmonised excise goods from a tax warehouse;
- Sale of excise goods in Poland;
- Export and import of excise goods;
- Intra-community acquisition and supply.

Excessive wastage or loss through negligence of some excise goods are also subject to excise tax.

Excise taxpayers are legal entities, organisational units without legal personality and natural persons performing taxable activities. Moreover, excise taxpayers are also subjects
- acquiring or holding excise goods on which excise tax has not been paid in due amount,
- holding harmonised excise goods where excessive wastage or loss have occurred,
- providing services of manufacture of excise goods under a contract of specific work or another contract.

5.2.2. Liability

The liability arises when taxable acts are performed. However, some exceptions apply.

If excessive wastage or loss occurs due to negligence, the tax liability arises on the day when this occurred, or, if it is not possible to determine the date, on the day when it was detected.

In the case of electricity, the tax liability arises upon its release.
For exports of excise goods, the tax liability arises when a customs office confirms that the goods have been exported.

For imports of excise goods, the tax obligation arises when a customs debt within the meaning of the customs law provisions is incurred.

For intra-community acquisitions, the tax obligation arises upon receipt of the excise goods subject to such acquisition.

5.2.3. Tax base
The tax base depends on the way of expressing the tax rates. Where the excise rate is expressed as a percentage of the tax base, the tax base is:

- The amount due from the sale of excise goods within the territory of the country reduced by the amount of tax on goods and services and the excise amount due from such goods;
- The amount which the acquirer is obliged to pay for excise goods where an intra-community acquisition is made;
- The amount due from the supply of excise goods into the territory of the Member State where an intra-community supply is made;
- The customs value of excise goods increased by the amount of customs duty due on import.

However, in practice, this type of excise duty rate only applies to cars and cosmetics (those liable to excise tax).

When the excise rate is expressed as an amount per unit of goods, the tax base is the quantity of excise goods (alcoholic beverages and mineral oils).

When the excise rate is expressed as an amount per unit of goods and a percentage of the maximum retail price, the tax base is the quantity of excise goods and the retail price fixed and printed on each packet (cigarettes).

5.2.4. The rates
The excise tax rate level is specified in the EU regulations (minimum rates), however, some Polish excise duty rates are temporarily below these limits due to transitional periods granted to Poland before Poland’s accession to the EU.

At present the rates are stipulated not by law but by the lower category act and may be changed in a relatively flexible manner by government (even several times a year).

5.2.5. Excise taxpayers’ registration
Taxable persons carrying on economic activity related to excise goods are obliged to submit an application for registration to the head of a customs office. The head of the customs office confirms the registration in writing. If the particulars provided in the registration application change, the taxpayer is obliged to notify the head of the customs office of the change within seven days from the date of the change.
5.2.6. Excise duty return

Excise taxpayers are obliged, among other things, to

− Submit to the customs office monthly excise duty returns by the 25th day of the month following the month in which the tax liability arose

− Calculate and pay the monthly amounts of excise by the 25th day of the month following the month in which the tax liability arose, to the account of the relevant customs office

− Calculate and pay the initial daily excise amounts in respect of harmonised excise goods.

5.2.7. Exemptions

Numerous exemptions apply to goods subject to excise duty; however, specific requirements must be fulfilled. This is regulated in a specific manner with respect to product type, usage or situation.

5.3. Customs duties

5.3.1. Introduction

When Poland joined the European Union on 1 May 2004, the Community Customs Code (hereinafter called ‘the Code’) was introduced.

The Community is based on a customs union. In the interests of both Community traders and the customs authorities, the provisions of customs legislation are gathered in a code. The Code incorporates current customs legislation based on the concept of an internal market and contains the general rules and procedures ensuring the implementation of the tariff and other measures introduced at Community level in connection with trade in goods between the Community and third countries. Taking into consideration the paramount importance of external trade for the Community, customs formalities and controls are abolished or at least kept at a minimum.

The following regulations apply in the domain mentioned above:

− Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code,

− Council Regulation (EEC) No 2545/93 of 2 July 1993 r. laying down provisions for the implementation of the Council Regulation establishing the Community Customs Code

− Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of relief from customs duty

− International treaties and conventions
5.3.2. The scope

Community customs rules apply uniformly throughout the EU customs territory. The Code applies
- to trade between the EU and third countries
- to goods covered by the European Coal and Steel Community Treaty, the European Economic Community Treaty or the European Atomic Energy Community Treaty.

Certain provisions of customs rules may also apply outside the EU customs territory within the framework of either rules governing specific fields or international conventions.

5.3.3. Customs tariff of the European Community and tariff classification of goods

Customs debts incurred are based on the Customs Tariff of the EU. The other measures prescribed by the EU provisions governing specific fields relating to trade in goods apply, where appropriate, according to the tariff classification of such goods. The EU customs tariff comprises

(a) The combined nomenclature of goods;

(b) Any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by EU provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;

(c) The rates and other items of charge normally applicable to goods covered by the combined nomenclature as regards:

- Customs duties; and,

- Agricultural levies and other import charges under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

(d) The preferential tariff measures contained in agreements which the EU has concluded with certain countries or groups of countries and which allow the granting of preferential tariff treatment;

(e) Preferential tariff measures adopted unilaterally by the EU in respect of certain countries, groups of countries or territories;

(f) Autonomous suspensive measures allowing a reduction in or relief from import duties chargeable on certain goods;

(g) Other tariff measures provided for by other EU legislation.
5.3.4. Customs value

The customs value of imported goods is the transaction value, that is, the price actually paid or payable for the goods when sold for export to the EU customs territory. Where the customs value cannot be determined under the above rule, it is to be determined using the following proceedings:

a) The transaction value of identical goods sold for export to the EU and exported at or about the same time as the goods being valued;

b) The transaction value of similar goods sold for export to the EU and exported at or about the same time as the goods being valued;

c) The value based on the unit price at which the imported goods for identical or similar imported goods are sold within the EU in the greatest aggregate quantity to persons not related to the sellers;

d) The computed value consisting of the sum of:

- The cost or value of materials and fabrication or other processing employed in producing the imported goods,

- An amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the exporting country for export to the EU.

In determining the customs value, the following items must be added to the price actually paid or payable for the imported goods:

a) The following to the extent that they are incurred by the buyer, but are not included in the price actually paid or payable for the goods:

- Commissions and brokerage, except buying commissions,

- The cost of containers which are treated as one, for customs purposes, with the goods in question,

- The cost of packing, whether labour or materials;

b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- Materials, components, parts and similar items incorporated in the imported goods,

- Tools, dies, moulds and similar items used in the production of the imported goods,
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- Materials consumed in the production of the imported goods,

- Engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in the EU and necessary for the production of the imported goods;

c) Royalties and licence fees related to the goods valued which the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

e) The cost of transport and insurance of the imported goods as well as loading and handling charges associated with the transport of the imported goods to the place of introduction into the EU customs territory.

The following changes, etc are not included in the customs value if shown separately from the price paid or payable:

[a] Charges for the transport of goods after their arrival at the place of introduction into the EU customs territory;

[b] Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after import of imported goods such as industrial plant, machinery or equipment;

[c] Interest charges under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the financing is provided by the seller or another person, provided the financing arrangement has been made in writing and the buyer can demonstrate where required that

- Such goods are actually sold at the price declared as the price actually paid or payable, and

- The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the financing was provided;

[d] Charges for the right to reproduce imported goods in the EU;

[e] Buying commissions;

[f] Import duties or other charges payable in the EU due to the import or sale of the goods.
5.3.5. Entry of goods into the EU customs territory

Goods brought into the EU customs territory are subject to customs supervision from the time of their entry. These goods must be conveyed by the person bringing them into the EU without delay, by the route specified by the customs authorities and in accordance with their instructions, if any:

a) To the customs office designated by the customs authorities or to any other place designated or approved by the authorities; or,

b) To a free zone if the goods are to be brought into that free zone directly:

- By sea or air, or
- By land without passing through another part of the EU customs territory where the free zone adjoins the border between a Member State and a third country.

Goods arriving at the customs office or another place designated or approved by the customs authorities must be presented to customs authorities by the person who brought the goods into the customs territory of the EU. Goods presented to customs authorities must be covered by a summary declaration. The declaration must be lodged once the goods have been presented to the customs authorities.

5.3.6. Customs procedures

“Customs procedure” means:

- Release for free circulation;
- Transit;
- Customs warehouse;
- Inward processing;
- Processing under customs control;
- Temporary clearance;
- Outward processing;
- Exportation.

All goods intended to be placed under a customs procedure must be covered by the appropriate declaration. The customs declaration must be made

- In writing; or
- Using a data-processing technique where provided for by provisions laid down in accordance with the committee procedure or where authorised by the customs authorities; or
- By means of a normal declaration or any other act whereby the holder of the goods expresses his wish to place them under a customs procedure where such a possibility is provided for by the rules adopted in accordance with the committee procedure.

Non-EU goods released for free circulation are given the customs status of EU goods. This entails application of commercial policy measures, completion of other formalities laid down in respect of the import of goods and the charging of any duties legally due.

5.3.7. Relief from customs duty

Acting by a qualified majority on a proposal from the Commission, the Council determines the cases in which, on account of special circumstances, relief from import or export duties may be granted where goods are released for free circulation or exported.

Community goods which, having been exported from the EU customs territory, are returned to that territory and released for free circulation within a period of three years will, at the request of the person concerned, be granted relief from import duties. The relief from import duties mentioned above will not be granted if

[a] the goods are exported from the EU customs territory under the outward processing procedure unless the goods remain in the state in which they were exported;

[b] the goods have been the subject of an EU measure involving their exportation to third countries. The circumstances and conditions under which this requirement may be waived will be determined in accordance with the procedure of the Customs Code Committee.

5.3.8. Security to cover customs debt

Under the customs rules, the customs authorities can require security to ensure payment of a customs debt. The security must be provided by the person who is liable or who may become liable for that debt. Security may be provided as either

- a cash deposit, or

- a bank/insurance guarantee.

5.3.9. Incurrence of a customs debt

A customs debt on import is incurred in connection with

a) The release for free circulation of goods liable to import duties, or

b) The placing of such goods under the temporary import procedure with partial relief from import duties.
A customs debt arises when the customs declaration is accepted. The debtor is the declarant or, in the event of indirect representation, the person on whose behalf the customs declaration is made.

5.3.10. Right of representation

Any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities prescribed by the customs rules. Such representation may be:

- Direct, in which case the representative acts in the name of and on behalf of another person, or
- Indirect, in which case the representatives acts in his own name, but on behalf of another person.

A Member State may restrict the right to make customs declarations:

- by direct representation, or
- by indirect representation,
  so that the representative must be a customs agent carrying on his business in that country's territory.

A representative must be established within the EU and must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and be empowered to act as a representative. A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being empowered to do so will be considered to be acting in his own name and on his own behalf. When a person acts in the name of or on behalf of another person, the customs authorities may require documentation that he is authorised to do so.

5.4. KPMG Tax

5.4.1. Denmark

KPMG Tax in Denmark is among the largest tax-advising firms in Denmark, employing more than 120 people. Our specialists provide advice on all questions concerning the areas of corporate and personal tax and VAT, nationally as well as internationally. Advice regarding foreign tax relations is provided in collaboration with KPMG’s tax departments abroad.

Our corporate tax specialists provide advice regarding all corporate tax issues, including tax returns, restructuring programmes such as mergers, demergers, contribution of assets and exchange of shares, applications for binding advance rulings, purchase and sale of companies, joint taxation of groups, etc. A special finance group renders advice to players in the financial sector such as banks, insurance companies, brokers and pension funds.
The specialists engaged in personal taxation provide advice and assistance regarding personal tax with respect to financial planning and employee issues including the preparation of tax returns. Advice on international personal tax issues is a substantial business area. This includes tax services to employees assigned to work outside their home country. We also provide advice for self-employed persons. Our services include advice regarding tax procedures, the handling of complaints in the tax administrative system and appeals to the National Tax Tribunal.

The VAT and indirect tax group offers advice and assistance regarding VAT, payroll tax, customs duties, excise duties and green taxes. KPMG’s specialists on VAT and indirect taxes assist Danish as well as foreign clients with compliance and calculation of taxes, tax optimisation, legal and professional assessments of questions regarding duties. Furthermore, KPMG’s VAT and indirect tax group assists in communicating with tax authorities and takes part in the handling of complaints at the National Tax Tribunal about rulings regarding VAT, indirect taxes and customs duties. Moreover, the group assists international clients with VAT registration and acts as VAT representative for companies established within the EU.

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5.4.2. Poland

KPMG’s tax practice in Poland was set up in 1990, and it has since grown rapidly. The tax department now consists of nearly 90 tax professionals, including attorneys-at-law and licensed tax advisors. We have established a network of contacts in government administration bodies, including revenue boards and tax offices, the Ministry of Finance, the Ministry of Foreign Economic Relations. In conjunction with our worldwide network, this enables us to offer our clients practical solutions, which meet their requirements in what remains a fluid and potentially treacherous business environment. Our client base covers a broad spectrum of business sectors and includes many large international businesses, as well as leading Polish companies.

We provide the full range of tax services that you would expect to receive from a KPMG office, such as:

- Tax advisory services in the scope of banking and finance,
– General tax services in the scope of corporate income tax, personal income tax and VAT,

– Interpretation of legal regulations, including decisions and current practice of tax offices and other authorities;

– Assistance in devising the most efficient and effective capital structures;

– Investment analysis and planning to reduce tax and VAT burdens;

– Tax due diligence;

– Advising on current customs and excise procedures and decreasing customs burdens.

**Address in Poland:**

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For further details about KPMG offices in your country, please see

www.kpmg.com