

Taxation of Investments in Polish Real Estate – A Guide for UK Investors

January 2008

Introduction

Many UK resident individuals are attracted by the buoyant Polish property market and seek to buy real estate.

At the same time, UK expatriates working in Poland often want to acquire a property for residence or investment purposes. The Polish and UK taxation systems will apply in many cases to purchasers. Set out below is a summary of the main issues.

Polish taxes on purchase of real estate in Poland

There is a flat rate tax of 2 percent, which is payable on purchase of buildings or land. This is called Civil Law Activity Tax and corresponds to Stamp Duty in the UK. The relevant law is the Law on Civil Law Activities of 9 September 2000 (as subsequently amended).

Although under Article 5 of the above Law the payment obligation falls jointly and severally on the vendor and the purchaser, it is normally the purchaser who pays the tax and payment is due within 14 days of signature of the sales agreement. Normally the Polish notary public, before whom the sales agreement has been concluded, will collect and remit this tax to the tax authorities.

Polish VAT is charged at a rate of 7 percent on the purchase of new properties from developers. It is not usually possible to recover this either in Poland or in the UK. Normally there is no VAT charged on the purchase of pre-owned residential real estate.

Polish taxes on the sale of real estate in Poland

The 2 percent Civil Law Activity Tax described above will apply, but generally the purchaser will pay this:

Under the Personal Income Tax Law of 26 July 1991 (as subsequently amended) if the property has been owned for at least five years counting from the end of the year in which it was purchased, or if the taxpayer has resided there for an unbroken 12-month period before the sale and this address has been registered as his/her main residence (zameldowanie), no other tax will be due in Poland.

However if it has been owned less than five years, then personal income tax at a flat rate of 19 percent will be due on the gain realised. This tax is payable on or before 30 April of the year following the tax year in which the sale occurred.

UK tax on the sale of real estate in Poland

Capital Gains Tax (CGT) will be charged under the Taxation of Capital Gains Act of 1992. There is no Private Principal Residence (PPR) relief available as the property is located outside the UK. Capital Gains Tax is assessed at the taxpayer's highest marginal rate, i.e. up to 40 percent, and is collected under normal Self Assessment rules. A return of capital gains is filed and tax is paid on gains by 31 January after the end of the year of assessment.

Taper relief is available for a property that has been owned for several years and can reduce the

capital gain which is subject to tax by up to 40 percent This is additional to the annual exemption for each taxpayer which is currently GB£ 8,800.

Since Poland and the UK have concluded a double taxation avoidance agreement, any Polish tax paid on the sale of Polish real estate will be credited against the UK CGT due.

Polish taxation of rental income

There are two choices available to the UK taxpayer:

- 1) Flat rate tax, which is charged at 8.5 percent on the first €4,000 or equivalent of rental income and at 20 percent thereafter up to €250,000. It is reported and paid monthly in arrears (by the 20th of the following month) and the payment for December is made together with the annual tax return (by 30 April of the following year). The relevant legislation is the Flat Rate Tax on Certain Types of Incomes of 20 November 1998.
- 2) Standard progressive rates of income tax, which are as follows:

Taxable annual income in Polish zlotys (PLN)		Tax Due
1	- 37,024	19% less a tax free allowance of PLN 530.08
37,024	- 74,048	PLN 6,504.48 + 30% of the amount above PLN 37,024
74,048	- 600,000	PLN 17,611.68 + 40% of the amount above PLN 74,048
	600,000	PLN 227,992.48 + 50% of the amount above

Tax is reported and paid monthly in arrears (by the 20th of the following month) and the payment for December is made in December in an equal amount to the November payment. Any over or underpayment is corrected in the annual tax return due on or before 30 April of the following year. Costs such as agent's fees, accountancy costs, furniture purchase and repairs can be deducted from rental income.

UK Taxation of Polish Rental Income

Tax is due on the basis of the rules contained in the Income Tax (Trading and Other Income) Act of 2005 at standard income tax rates depending on status. Normal Self Assessment rules apply so the income must be reported and final tax paid by 31 January after the tax year. Many costs are allowed as deductible expenses.

Since Poland and the UK have concluded a double taxation avoidance agreement any Polish tax paid on the Polish rental income will be credited against the UK income tax due.

Gift and Inheritance Tax in Poland

This is regulated by the Gift and Inheritance Tax Law of 28 July 1983. Inheritance tax is charged in Poland at maximum rates of 3, 7 and 12 percent of the value of the property. Different rates apply to different degrees of kinship with the deceased or beneficiary, and there are many exceptions.

This tax is not covered by the Poland-UK Double Taxation Avoidance Agreement, but the UK gives unilateral relief in respect of Polish gift and inheritance tax assessed.

Inheritance Tax in the UK

The tax is assessed under the Inheritance Tax Act of 1984 on gifts or upon inheritance including assets located outside the UK.

There is no tax on gifts between spouses or to registered charities. The rate of tax is a flat 40 percent on the whole amount over £300,000 in the current year.

NOTES:

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained. Totalserve Management Ltd will be glad to assist you in this respect. Please do not hesitate to contact us.