

The DTA with Brazil will come into force in 2026.

• 30 DECEMBER 2025 •

On 1 January 2026, the double taxation agreement between Poland and Brazil (DTA) will come into force. This is important information for Polish taxpayers operating on the Brazilian market and those cooperating with Brazilian contractors. There will also be changes for individuals who are residents of Poland and Brazil and for those who earn income in the other country.

WHO IS AFFECTED BY THE POLAND-BRAZIL DTA?

The provisions of the DTA apply to persons who are resident or have their registered office in Poland or Brazil. This includes any person who, under the law of that country, is subject to taxation there on account of their place of residence, place of permanent residence, place of incorporation, place of management or other similar criteria. The DTA also encompasses the State itself, its political subdivisions or local authorities, as well as recognized pension funds.

Where an individual is resident in both Contracting States, their status shall be determined according to:

- 1) place of residence,
- 2) the centre of vital interests,
- 3) the place where the person usually resides,
- 4) nationality.

KEY PROVISIONS OF THE DOUBLE TAXATION AGREEMENT WITH BRAZIL FOR ENTREPRENEURS

Thanks to the DTA, entrepreneurs can apply reduced withholding tax rates on income earned in the other country. However, it should be noted that preferential rates apply only to payments made to their **beneficial owner**.

In the case of dividends, the taxation rules differ depending on the direction of the payment:

- for payments from Poland to Brazil, the DTA allows for a tax reduction. The maximum rate is **10%** if the company receiving the dividend holds at least 25% of the shares in the paying company for an uninterrupted period of 365 days (including the date of payment). In other cases, a **15%** rate applies.
- in the case of payments from Brazil to Poland, the DTA will have no practical impact on the amount of taxation. This is due to the fact that from 2026, the basic withholding tax rate on dividends in Brazil will be **10%**, and therefore the domestic rate will be equal to or lower than the treaty limits.

The situation for interest and royalties is similar to that for dividends – the DTA sets limits, but Brazilian domestic law, which provides for a rate of **15%**, must be taken into account.

Interest will generally be taxed at a rate of **15%**. However, a reduced rate of 10% applies if the recipient is a bank and the financing (with a minimum term of 5 years) relates to the purchase of equipment, investment projects, or public works.

For **royalties**, the treaty provides two maximum rates:

- **15%** for trademarks,
- **10%** for other cases, including in particular royalties received in connection with the use or right to use copyrights, including rights to use industrial equipment.

Furthermore, it should be noted that the DTA with Brazil is one of the few agreements concluded by Poland that provide **for the possibility of withholding tax on technical, management and consulting services**. However, the concept of technical services is not defined in the agreement, which means that the understanding of this term in the source country must be carefully verified. The tax on such payments is **10%**.

The DTA also contains regulations concerning the creation of a permanent establishment. A permanent establishment is defined as, in particular, a place of management, a branch, an office, a factory, a workshop, as well as, among others, a mine, a quarry or any other place of exploration or extraction of natural resources, whereby a construction site, construction or installation works constitute a permanent establishment only if they last longer than twelve months.

KEY IMPLICATIONS FOR INDIVIDUALS

The DTA provides that **an individual's income from work performed in another country is taxable only in the country of tax residence** if all of the following conditions are met:

- the employee stays in the other country **for no more than 183 days** in any twelve-month period beginning or ending in a given tax year, and
- the remuneration is paid by or on behalf of an employer who **is not resident or established** in the other country, and
- the remuneration **is not borne by a permanent establishment or fixed base** that the employer has in the other country.

If **any of the above conditions are not met**, the remuneration for work **may be taxable in both countries** (i.e. in the country where the work is performed and in the country of residence). In such a case, the tax liability in the country of residence may be **reduced by the tax paid abroad**, in accordance with **the proportional deduction method (tax credit)**.

Similar rules apply to persons engaged in **professional or other independent activities (so-called liberal professions)**. According to the DTA, the income of such persons is taxable only in their country of tax residence, unless:

- they have a **permanent establishment** which they regularly use in the other country, or
- they stay in the other country **for more than 183 days** in any 12-month period beginning or ending in a given tax year.

METHOD OF AVOIDING DOUBLE TAXATION

In terms of avoiding double taxation, the DTA with Brazil provides for a proportional deduction method.

SUMMARY

The new DTA with Brazil presents numerous opportunities to reduce the tax burden on cross-border payments between Poland and Brazil. **We recommend reviewing existing payment schemes** to and from Brazil, as well as the continuous verification of transactions with Brazilian entities. This may allow for effective use of the new DTA.

Individuals will gain certainty that their income will only be taxed in one country.

Should you require a consultation on the impact of your cooperation with Brazilian entities—whether as an individual or a business, please contact our advisors.

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