Polish law
Polish law offers various forms of conducting business activity, which enables entrepreneurs to choose between individual conducting of business activity, civil partnership, and other forms - not having legal personality. The most important factors determining the final choice of the form of conducting business activity include requirements concerning initial capital, scope of shareholders’ liability or formalities prior to commencing business activity.

Individual conducting of business activity and civil partnership.
Individual conducting of business activity as well as civil partnership require neither initial capital outlays nor high costs related to setting up business activity. Entry in the Business Activity Register (Ewidencia działalności gospodarczej) is maintained by the head of a commune (wójt), the mayor of a town or the president of a city), requiring only to fill in a few forms, is charged only PLN 100 - this constitutes only one-tenth of National Court Register fee. However, one must be aware of the fact that these forms of conducting business activity impose unlimited liability of entrepreneurs for their enterprises' obligations.

Smaller forms of conducting business activity permitted by the Code of Commercial Partnerships and Companies
Planning larger scope of activities, it is reasonable to choose one of the forms stipulated in the Code of Commercial Partnership and Companies (KSH).

At first one should point at the partnerships, which do not have legal personality, but they can on their behalf purchase rights, including ownership of property and other rights in rem, incur obligations, as well as sue and be sued. In case of partnerships, each of the partners pays taxes based on the personal income tax rates.

The above mentioned Code enforces:
• registered partnership,
• professional partnership,
• limited partnership.

All of them require registering with the National Code Register and paying a fee of PLN 1,000 (plus additional cost of PLN 500 related to posting an advertisement in the Monitor Sądowy i Gospodarczy), as well as covering additional expenses related to preparing company’s deed (apart from registered partnership).

Registered partnership is the basic form of the partnership. No initial capital is required likewise in case of professional and limited partnership. Its crucial feature as well as the decisive factor related to accepting this form of conducting business activity is the scope of partners’ liability. They bear a subsidiary and unlimited liability for the obligations of the partnership, which means that partnership’s creditor can carry out the execution from the partners’ assets in each case the execution from the partnership proves to be in vain.

Professional partnership, contrary to other forms of business activity, is designated only for a limited number of professions, so-called ‘free professions’ - final enumeration is provided in the article 88 of the Code: advocate, pharmacist, architect, construction engineer, expert auditor, insurance broker, tax consultant, accountant, physician, dental surgeon, veterinary surgeon, notary, nurse, midwife, legal counsel, patent gent, property expert, sworn translator, stockbroker, investment adviser.

Limited access to that form of activity is compensated in suitable legal provisions governing liability. The partner in this kind of partnership is not liable for obligations of the partnership arising from activities related to carrying out the profession by another partner, as well as losses incurred by the partnership due to acts or omissions of a person being under supervision of another partner and being bound with the employment agreement or other legal relation with the partnership.

Limited partnership is designated for legal and natural persons. It enables significant limitation of liability as at least one of the partners - general partner is liable for all obligations of the partnership without any limitations, whereas limited partners’ liability is restrained up to the limited amount - limited partner share.

LLC and J-SC

However, the most popular forms of conducting business activity designated for the largest business undertakings are - limited liability company (LLC) and joint-stock company (JSC). The Code of Commercial Partnership and Companies attributes legal personality to both of them, which limits their liability only to the amount of their initial capital. One should however stress that in case the execution against a company ends in vain, members of the management board can be jointly and severely liable for company’s obligations unless they file a petition for declaration of bankruptcy or institute the arrangement proceedings in due time, or unless they prove that a failure to file a petition for declaration of bankruptcy or to institute the arrangement proceedings in due time, was not due to their fault, or that a creditor suffered no damage even though no petition for declaration of bankruptcy was filed or no arrangement proceedings instituted.

One of key requirements is also PLN 50,000 contribution as initial capital for setting up a limited liability company and PLN 500,000 PLN contribution as initial capital for setting up a joint-stock company. With regard to tax provisions both of these organisational forms are liable to Corporate Income Tax (CIT), whereas partners in partnerships are a liable to Personal Income Tax (PIT).

The above mentioned elements lead to a conclusion that each entrepreneur has to take a comprehensive analysis prior to his investment. He needs to take into account his abilities, scope of the activity planned, the scope of the liability related to conducting business activity in a specified form.

It has to be mentioned that in relation to EU membership, the choice of forms of running business activity is extended by European Economic Interest Grouping and European Company. EEIG do not require any initial capital and gathers entities from EU countries, not in order to make a profit but for the purpose of their promotion, which is different from a classic form of running business activity.

However, setting up a European Company can be limited only to large entities due to the requirement of high level of initial capital - EUR 120,000, as well as the limited types of entities allowed to cooperate in this form.

MANAGEMENT
PART 6

MANAGEMENT