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How Poland's Restrictive Tax Treatment of Losses Penalizes Risk-Taking and Business Expansion

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Key Findings:

- Loss recovery provisions allow businesses to smooth their taxable income over the business cycle. They encourage investment in high-risk, high-return projects, support business expansion, and provide firms with a liquidity cushion in temporary downturns.
- Poland has one of the most restrictive approaches to the tax treatment of losses in the Organisation for Economic Co-operation and Development (OECD). Loss carryforwards expire after five years and are capped at 50 percent of the initial loss if it exceeds PLN 5 million (about EUR 1.2 million). Carrybacks are not permitted at all, so current-year losses cannot be offset against past income.
- Loss treatment is further constrained by Poland's domestic minimum tax, which taxes firms at a loss position, and by the mandatory separation of income baskets, which prevents losses in one category from offsetting profits in another.
- Loss carryforwards account for roughly 70 percent of all corporate income tax deductions and targeted reliefs that apply to the tax base net of ordinary business expenses. The restrictive tax treatment of losses therefore represents one of the more impactful barriers to business investment in the Polish tax system.
- The annual 50 percent deductibility cap is a major restriction for firms of all sizes. Additionally, the largest taxpayers, which generate 60 percent of corporate income tax collections, face a greater risk of not being able to fully utilize their losses due to the PLN 5 million immediate deductibility cap. They consistently hold unused tax losses far in excess of the immediate deductibility limit, with the median loss position at twice the cap and the average loss one order of magnitude above the cap.
- Poland should adopt a significantly more flexible approach to the tax treatment of losses, eliminating time and deductibility limits to loss carryforwards and abolishing its domestic minimum tax. This would strengthen investment incentives, particularly for high-risk projects and fast-growing firms, and improve the competitiveness of the Polish tax system.

Introduction

Loss carryover provisions allow businesses to deduct their losses in one year against taxable income in another, smoothing their taxable income over time. Their absence or restriction leads to firms with more variable profits and losses over time being taxed at higher rates, penalizing risky investment, such as research and development (R&D), and business expansion.

For many years, Poland has maintained one of the most restrictive treatments of net-operating losses (NOLs) in Europe, allowing companies to carry forward their losses by a maximum period of five years and prohibiting them from offsetting current losses using past income entirely.[1] In contrast, most major European countries allow businesses to carry forward their NOLs for an unlimited number of years, and over a fourth have some type of carryback rule.

Further, the deduction of losses that exceed PLN 5 million (EUR 1.2 million) is subject to an annual cap of 50 percent of the initial loss. This restriction further narrows the time horizon over which firms can recover their losses and prevents entities with sustained periods of negative performance from recovering their accumulated losses. Taxpayers are also mandated to separate their income into distinct categories that cannot be offset against one another. Poland's domestic minimum tax (DMT) imposes additional tax liability on firms in years in which they run losses.

Using detailed administrative tax data, this report demonstrates that these severe restrictions affect the vast majority of business taxpayers. Loss carryforwards are the main deduction in the corporate income tax code, accounting for 70 percent of all deductions and targeted reliefs claimed by firms after deduction of ordinary business expenses. The largest firms with revenue above PLN 210 million (EUR 50 million) tend to have tax losses that substantially exceed the immediate deductibility cap. As a result, they are relatively less able to benefit from this provision and are therefore more likely to retain larger stocks of unutilized tax losses.

Why Do Loss-Offset Provisions Matter for Investment?

Income taxes typically treat business profits and losses asymmetrically. The state takes a share of corporate profits in tax revenue as they are generated, but its participation in losses—by deducting them from taxable profits—is usually delayed and limited. This asymmetrical treatment imposes a higher tax burden on businesses whose profits and losses fluctuate more strongly over time than on businesses that earn a more stable income every period.

Loss-offset provisions that allow businesses to deduct their losses from past years against current income (loss carryforwards) or current losses from past income (loss carrybacks) can help smooth businesses' taxable income over time, allowing them to be taxed at the same average rate.

Tax provisions that allow firms to recover their losses impact corporate investment and expansion decisions. Forgoing a portion of tax revenue in the short term by allowing firms to recover their losses can stimulate investment in human and physical capital in the long run.[2] Hanappi (2018) shows that

1 Alex Mengden, "Net Operating Loss Carryforward and Carryback Provisions in Europe, 2026," Tax Foundation, May 18, 2026, https://taxfoundation.org/data/all/eu/net-operating-loss-tax-europe/.
2 Timothy Vermeer, "Net Operating Loss Provisions: State Treatment and the Economic Benefits," Tax Foundation, Jan. 13, 2022, https://taxfoundation.org/research/all/state/state-net-operating-loss-provisions/.

loss carryovers affect firms' investment decisions in two ways. First, they reduce the adverse cash-flow effects of losses, supporting financially constrained firms' ability to recover and invest. Second, they soften the tax penalty on undertaking riskier investment projects in the first place by allowing businesses with more variable profits and losses over time to be taxed closer to their average income.[3]

Loss carryover provisions can also provide a liquidity cushion for firms when profits fluctuate over time. For example, when a loss carryback provision allows a firm to deduct its current losses from its prior year's profit, its ability to undertake investments is less affected by its temporary loss position in a particular year.

Loss carryforwards are often subject to restrictions regarding both the period and the amount of NOLs that can be deducted, limiting firms' loss recovery options with detrimental effects on business investment. The literature shows that a short carryforward period (less than five years, as applied in the Polish corporate income tax [CIT] system) reduces firms' willingness to take risk and results in lower levels of investment.[4]

Langenmayr and Lester (2018) find that extending the carryback period by one year is associated with an 11.6 percent increase in corporate risk-taking, compared to a 3.1 percent increase associated with another year of loss carryforwards.[5]

While loss carryforwards have a lower impact on risk-taking for each year of extension, they can also be extended for longer periods than loss carrybacks without risking any adverse incentives. For prolonged periods of carrybacks, policymakers must balance the strong investment response with the risk of misallocating capital into failing firms.[6]

Loss offset limits are harmful because they impede the full utilization of loss carryforwards, particularly if they are defined as a percentage of accumulated losses, which is also the case in Poland. Imperfect loss offsetting further decreases the value of other incentives, such as accelerated depreciation.

Loss Carryforwards Dwarf Poland's Targeted Corporate Tax Reliefs

Loss carryforwards represent the largest category of income deductions under the Polish corporate income tax, accounting for between 90 percent in 2018 and 69 percent in 2024 of all income deductions and targeted reliefs claimed by corporate taxpayers, which are applied after deducting ordinary business expenses for labor compensation and capital allowances.

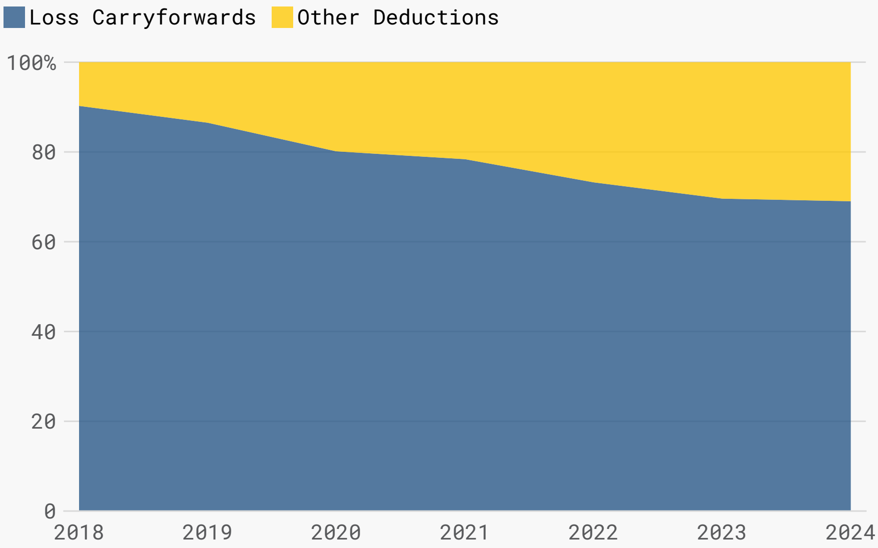
The declining share over the seven-year period is driven primarily by the increasing use of other tax incentives, particularly the R&D tax deduction, rather than a change in total loss carryforwards. Loss carryforwards remain by far the most important deduction in the Polish CIT system, and their aggregate nominal value has continued to grow during the observed time period.

3 Tibor Hanappi, "Loss carryover provisions – Measuring effects on tax symmetry and automatic stabilisation," OECD Taxation Working Papers, Feb. 22, 2018, https://oecd.org/en/publications/loss-carryover-provisions_bfbcd0db-en.html.
4 Daniel Dreßler and Michael Overesch, "Investment impact of tax loss treatment—empirical insights from a panel of multinationals," *International Tax and Public Finance* 20 (2013): 513-543, https://link.springer.com/article/10.1007/s10797-012-9240-1.
5 Dominika Langenmayr and Rebecca Lester, "Taxation and Corporate Risk-Taking," *The Accounting Review* 93:3 (2018): 237-266, https://doi.org/10.2308/accr-51872.
6 Inga Bethmann, Martin Jacob, and Maximilian A. Müller, "Tax Loss Carrybacks: Investment Stimulus versus Misallocation," *The Accounting Review* 93:4 (2018): 101-125, https://doi.org/10.2308/accr-51956.

Figure 1.

Carried Forward Losses Account for Most Corporate Income Tax Deductions in Poland

Share of Loss Carryforwards as a Percentage of Income Deductions Under Poland's Corporate Income Tax, After Ordinary Business Expenses, 2018-2024



Note: Other deductions include donations, R&D expenses, expenses for acquiring new technologies, and several minor deductions. Ordinary business deductions for capital allowances and labor compensation are not covered and are far larger in magnitude.
Source: Authors' calculations based on data from the Polish Ministry of Finance.

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Only Losses Below the Immediate Deduction Cap Benefit from Full Relief

All businesses subject to corporate or personal income tax may carry forward tax losses for up to five consecutive years following the year in which the loss was incurred. The amount deducted in any given year cannot exceed 50 percent of the original loss. This narrows the time window over which a firm can recover its losses to at least two years in the five years after incurring it, severely restricting firms from utilizing their accumulated losses.

This problem is particularly pronounced during extended periods of low profitability or when taxpayers claim deductions for capital expenditures that reduce their taxable income. In such cases, a portion of the losses will typically expire before they can be offset against future profits.

To improve the treatment of tax losses, the Polish legislature reformed carryforward rules in 2019. Taxpayers may now immediately deduct up to PLN 5 million (approximately EUR 1.2 million). Any remaining losses are subject to the 50 percent annual deduction limit and must be utilized within five years.

Loss carryback remains generally unavailable under Polish tax law, even though prior research suggests that firms typically prefer better carryback provisions over carryforwards when the latter are already generous, because they provide more immediate liquidity and thus greater incentives for corporate risk-taking.[7]

7 Exception: Under certain conditions, a limited form of loss carryback is available when a taxpayer transitions from the standard CIT regime to the distributed-profit taxation regime (the so-called Estonian CIT, which may be elected by eligible corporate taxpayers).

Consider a firm that recovers quickly from a loss position from one year to the next and generates sufficient taxable income to absorb the entire loss without exceeding the PLN 5 million threshold. Although the total tax liability over the entire period under the old and new regime remains unchanged in nominal terms (PLN 9,500 + PLN 9,500 = PLN 19,000), the immediate loss offset up to PLN 5 million offers better loss recovery in real terms, deferring the tax payment until the second profitable year without eroding the real value of the deduction due to inflation and the time value of money. By permitting the full loss deduction already in the first profitable year, the revised regime postpones taxation to the second year, giving the firm more liquidity in year one and letting it recover more of its loss in real terms.

Table 1. Restricted Loss-Offset Provisions Versus Immediate Loss Offset Under the Polish CIT

CASE 1: Losses Below the Immediate Deductibility Cap		Year 0	Year 1	Year 2
Net Income (PLN)		-100,000	100,000	100,000
Restricted Loss Carryforward Provisions Under Old Rules (PLN)	Loss Offset		50,000	50,000
	Tax Base		50,000	50,000
	CIT Liability 19%		9,500	9,500
Immediate Loss Carryforward Provisions Under New Rules (PLN)	Loss Offset		100,000	0
	Tax Base		0	100,000
	CIT Liability 19%		0	19,000

Source: Tax Foundation Europe.

Firms with Large Losses May Not Benefit from Immediate Loss-Offset Provisions

The relative advantage of the reform applies only to losses that do not exceed the PLN 5 million threshold. For larger losses, applying the traditional rules may in fact allow taxpayers to utilize their losses more quickly because applying the 50 percent cap may prove more beneficial than the PLN 5 million cap. As a result, taxpayers may be able to offset a larger share of the loss in the years immediately following its occurrence, remaining under the 50 percent limit.

Table 2. Restricted Loss-Offset Provisions Versus Immediate Loss Offset Under the Polish CIT

CASE 2: Losses Exceeding the Immediate Deductibility Cap		Year 0	Year 1	Year 2
Net Income (PLN)		-15,000,000	10,000,000	10,000,000
Restricted Loss Carryforward Provisions Under Old Rules (PLN)	Loss Offset		7,500,000	7,500,000
	Tax Base		2,500,000	2,500,000
	CIT Liability 19%		475,000	475,000
Immediate Loss Carryforward Provisions Under New Rules (PLN)	Loss Offset		5,000,000	7,500,000
	Tax Base		5,000,000	2,500,000
	CIT Liability 19%		950,000	475,000

Source: Tax Foundation Europe.

Table 2 demonstrates that the immediate loss-offset provisions are not necessarily more advantageous than the traditional regime due to the PLN 5 million cap. While the revised rules provide greater tax benefits when the loss remains below the threshold, the opposite may be true for larger losses. In such cases, the traditional provisions may allow taxpayers to utilize their losses more rapidly.

Under the traditional regime, the entire loss of PLN 15 million can be offset within two years (PLN 7.5 million in each year). In contrast, under the revised provisions, applying the immediate offset up to PLN 5 million, only 83 percent of the loss can be utilized over the same period (PLN 5 million in the first year and PLN 7.5 million in the second year, for a total of PLN 12.5 million). Because the PLN 5 million cap limits the initial deduction, the taxpayer is unable to offset the full loss within the two-year horizon.

The remaining loss may be deducted over the subsequent three years, provided that the firm generates sufficient taxable income. Consequently, taxpayers face the risk that part of the accumulated loss will remain unused and eventually expire. This risk is particularly relevant when future profits are volatile or when taxable income is reduced by other tax preferences, such as R&D tax incentives. Paradoxically, the immediate loss-offset mechanism may reinforce rather than alleviate the asymmetric treatment of profits and losses under the Polish CIT system in cases involving large tax losses.

The examples presented in Tables 1 and 2 demonstrate that even immediate loss-offset provisions may be insufficient when they are subject to caps and time limitations. Moreover, the coexistence of the traditional and revised loss-offset regimes within the Polish corporate income tax system adds further complexity to the tax code, while the benefits of the reform are concentrated primarily among taxpayers with relatively small losses.

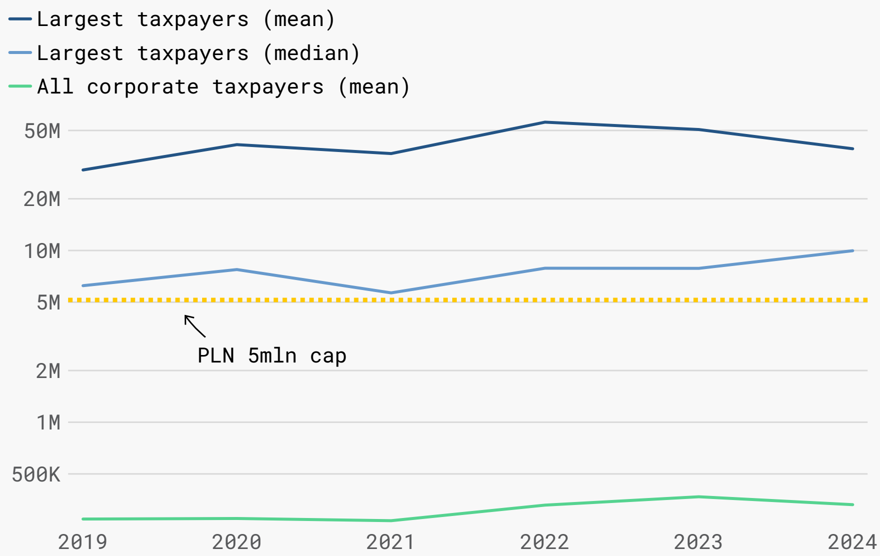
The Largest Corporate Taxpayers Face the Greatest Constraints on Loss Utilization

Based on administrative tax data, we examine the average size of tax losses relative to the statutory cap on immediate loss deductions. This allows us to evaluate the extent to which the cap constrains firms' ability to offset losses and, therefore, how binding these restrictions are in practice.

Figure 2.

The Largest Corporate Income Taxpayers Are Severely Restricted by Poland's Immediate Deductibility Cap

Mean and Median of Unused Tax Losses and Loss Deduction Cap Among All and the Largest Corporate Income Taxpayers, 2019-2024



Note: The largest taxpayers include corporations with annual revenues above EUR 50 million and account for 60% of corporate tax revenue.
Source: Authors' calculations based on data from the Polish Minstry of Finance.

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The average tax loss across the entire population of corporate income taxpayers remains well below the statutory threshold for immediate loss deduction. In 2024, the average loss amounted to PLN 331,000, a small fraction of the cap for immediate deduction at PLN 5 million. This suggests that the revised loss-offset provisions are likely to benefit most Polish corporate taxpayers, as the losses they incur fall comfortably within the threshold.

However, the median loss among the largest corporate taxpayers with revenues above PLN 210 million (EUR 50 million) exceeded the immediate deduction threshold in every year for which data are available. Their average losses, which are sensitive to extreme observations, ranged from PLN 29 million to PLN 56 million among the largest taxpayers, exceeding the immediate deduction cap by up to 11 times. This suggests that even extending the maximum carryforward period of five years into an indefinite time horizon may not provide sufficient relief for large firms, as they are tightly constrained by the deductibility cap at the same time.

The potential economic implications are substantial, given that the relatively small group of the largest taxpayers (between approximately 2,800 and 4,300 firms, depending on the year) accounts for nearly 60 percent of total CIT revenues. The taxpayers that contribute the largest share of corporate tax revenues are also those least likely to benefit fully from the more flexible loss-offset regime.

Separate Income Categories in the Polish CIT Further Restrict Loss Utilization

Mandatory separation of operating and capital income further limits firms' ability to utilize tax losses. Corporate taxpayers are required to calculate taxable income separately for two categories of income: operating income and capital income, with the latter comprising capital gains and a range of financial and investment-related transactions. While the separation of income sources is a common characteristic of personal income tax systems worldwide, it is much less common practice in corporate taxation.

The introduction of this distinction was intended to curb tax avoidance practices that enabled firms to reduce taxable operating income through losses generated from financial transactions. However, this structure also imposes important constraints on loss utilization, as losses may be offset only against income derived from the same source.

For example, a firm may incur an operating loss because of rising production costs or higher expenditures on materials and labor, while simultaneously earning dividend income. Under the current rules, the operating loss cannot be offset against the dividend income. As a result, the dividend income is taxed in the year in which it is received, whereas the operating loss must be carried forward and deducted in accordance with the loss-offset provisions described above. If the firm does not generate sufficient operating profits within the subsequent five years, the loss expires, even if the company remains profitable overall due to income earned from the other source. The separation of corporate income into two distinct categories therefore adds another layer of complexity to an already intricate tax system.

The effectiveness of mandatory separation in preventing tax base erosion appears questionable: in 2023, operating losses accounted for 92 percent of all losses reported by the largest CIT taxpayers. By contrast, losses from capital transactions (e.g., arising when shares are sold below their purchase price) were incurred by only 20 percent of firms within this group and represented merely 8 percent of total losses, suggesting that the administrative and compliance costs associated with the schedular structure may outweigh its potential benefits.

The anti-avoidance goals of mandatory separation also do not require the restrictions to be symmetric, as preventing offsetting operating losses against positive capital income does not help to curb avoidance via losses from financial transactions.

When combined with restrictive loss-offset provisions, the requirement to segregate income sources can generate additional distortions, reduce the value of loss relief, and discourage investment activity.

Additional Minimum Tax for Loss-Making and Low-Profit Companies

Since 2024, Poland has imposed a DMT on firms reporting tax losses or operating with a profit margin below 2 percent. The tax is levied in addition to the standard corporate income tax and is referred to as the *domestic minimum tax* to distinguish it from the Global Anti-Base Erosion (GloBE) minimum tax, which Poland implemented in 2025.[8]

The Polish DMT is characterized by a high degree of complexity and imposes substantial compliance costs on taxpayers. Firms must first determine whether they fall within the scope of the tax by applying a series of statutory tests, including eligibility criteria related to firm size, age, ownership structure, industry, financial performance, or group affiliation. If they do, they are required to calculate their corporate tax base according to rules that differ significantly from those used under the standard CIT system.

Unlike the corporate income tax itself, the DMT is not levied on profits but based on a formula that includes a portion of operating revenues and selected categories of business expenditures, with the resulting tax liability subject to a 10 percent rate.

This implements a minimum level of corporate taxation, particularly among firms that report little or no taxable income, impacting firms when their standard corporate income tax liability is either zero or lower than the amount due under the DMT.

Although firms may credit the DMT against future corporate tax liabilities if they return to profitability, this relief is available only for a short period of three years, unlikely to allow firms to reclaim their tax losses or offset the negative impact of the tax on investment incentives and business expansion.[9]

As a result, the Polish DMT can place a significant burden on businesses, particularly those operating in low-margin industries where profitability is naturally limited or during sustained loss periods when firms invest for gains in the future. The complexity of the rules determining tax liability substantially increases compliance and administrative costs, leading to higher tax planning expenditures. Numerous exemptions from the DMT may distort competition by providing preferential treatment to some firms while leaving others subject to the tax.

8 Alex Mengden, “Pillar Two Implementation in Europe, 2025,” Oct. 5, 2025, Tax Foundation, https://taxfoundation.org/data/all/eu/pillar-two-implementation-europe/.
9 Aqib Aslam and Maria Delgado Coelho, “A Firm Lower Bound: Characteristics and Impact of Corporate Minimum Taxation,” International Monetary Fund, Working Paper No. 2021/161, 2021, https://doi.org/10.5089/9781513561073.001.

Conclusion

The analysis presented in this paper shows that the Polish tax system adopts an unusually restrictive approach to the treatment of tax losses. This is evident not only in the restrictive loss carryforward provisions, but also in the requirement to separate income into different categories for tax purposes and in the application of the domestic minimum tax to loss-making and low-profit firms.

The introduction of constrained immediate loss deduction has improved the tax treatment of corporate losses in Poland and created a more supportive environment for entrepreneurial risk-taking. Nevertheless, significant limitations remain, suggesting that further reforms are needed to achieve a more symmetric treatment of profits and losses within the Polish corporate income tax system.

The five-year maximum loss carryforward period remains short by international standards and prevents firms with long time horizons and sustained periods of negative performance from fully utilizing accumulated losses.

The cap on immediate loss deductions binds investment by most of the largest firms that generate 60 percent of corporate tax revenues whose losses exceed the statutory threshold. The separation of corporate income into distinct income categories limits the ability to offset losses across sources of income. Finally, the domestic minimum tax levies a tax burden on firms that are in a loss position, adds another layer of complexity to the system, increases compliance and administrative costs, and creates opportunities for tax arbitrage due to its numerous exemptions.

Implementing a more generous and flexible system of loss utilization would strengthen the environment for business investment, encourage corporate risk-taking in innovative industries, and support business expansion by alleviating the heavy tax penalties that Poland places on businesses whose profits and losses fluctuate over time.