

# BS&O ALERT

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**IBDO**

## INFORMATION

# The tax authorities explained how to make adjustments after reclassifying a mandate into an employment contract

**Correction PIT-11 information must include the actual tax advances collected, while PIT-4R must show the advance payments due that the payer was obliged to collect in accordance with the regulations - as was explained in one of the latest tax interpretations.**

The Director of the National Revenue Information Centre, in the interpretation issued on 23 January 2025 (reference number 0113-KDIPT2-3.4011.650.2024.1.JŚ), explained in detail the rules for correcting tax documents in the event of reclassification of a mandate contract into an employment contract. The interpretation indicated significant differences between the PIT-11 correction and the PIT-4R declaration.

In the case of PIT-11 information, the tax authority clearly stated that the correction must present only the actual situation - the employee's actual income and actual tax advances collected. The mere fact that advance payments must be collected in a different amount is not a basis for showing them in the PIT-11 correction if they have not actually been collected. This corresponds to the nature of the document, which informs about tax advances collected (and not due). PIT-4R requires a different approach. This declaration must include advance payments due - those that the payer was obliged to collect in accordance with applicable regulations. In such a situation, the payer must correct the PIT-4R by presenting the correct amount of advance payments that it should collect on income from the employment contract, not from the mandate contract.

The key issue is the payer's liability for uncollected tax which arises by operation of law pursuant to Article 30 § 1 of the Tax Ordinance. However, this liability expires when the taxpayer settles the liability independently in the annual tax return. The tax authority cannot then demand the same amounts from the payer because the obligation has been extinguished by the taxpayer's payment. The payer is also responsible for interest on tax arrears incurred due to its fault.

The provision of Article 81 § 1 of the Tax Ordinance constitutes the legal basis for corrections, enabling the correction of any errors in the declaration, including incorrect classification of income or incorrect calculation of tax advances. The correction may include accounting errors, obvious errors and situations of non-compliance of the declaration with the requirements or doubts as to the accuracy of the data.

The authority noted that the payer's obligation is not abstract, but reflects the taxpayer's burden. This is important when determining the scope of the payer's liability for failure to fulfil the obligations under Article 8 of the Tax Ordinance - calculation, collection and payment of tax in the appropriate amount and on time.





# A bill amending the Labor Code regarding mobbing and harassment has been published

**The Government Legislation Centre has published draft amendments to the Labour Code which are to introduce new definitions of mobbing and harassment and specify employers' obligations in terms of counteracting violence in the workplace.**

The proposed bill (form UD183) amending the Labour Code aims to clarify the definition of various forms of violence in the professional environment. The planned regulations are to be based on 20 years of judicial decisions and conclusions from sciences in the field of management, psychology and sociology of work.

The bill aims to simplify the definition of mobbing, indicating "persistent harassment of an employee" as the basic feature. The concept of long-term is to be omitted in favour of persistence, understood as non-incidental, recurrent or permanent harassment. Mobbing activities are to be defined as physical, verbal and non-verbal. At the same time, the bill defines the lower limit of the amount of compensation for mobbing as the employee's remuneration for a period of six months, recognising that harassment that is persistent cannot be compensated with monetary compensation amounting only to the amount of one minimum wage.

In the area of employee claims, the bill is to introduce a distinction between compensation for financial damage (compensation)

and non-financial damage (relief). The minimum amount of relief for mobbing is to be set at the level of 6 months of the employee's remuneration.

It is planned to standardize the definition of abuse and sexual abuse, including their physical, verbal and non-verbal forms. In cases involving violations of the principle of equal treatment, the principle of distribution of the burden of proof is to be introduced - the employee will have to substantiate the violation, and the employer will have to prove that it did not occur.

The bill aims to specify the employer's obligations in terms of counteracting discrimination and violating the dignity of employees. The employer is to be released from civil liability for mobbing if it does not come from the employee's superior and the employer implements effective preventive measures.

Work regulations or announcement (in a situation where the employer is not obliged to prepare regulations) must contain rules for counteracting violations of the employee's dignity and other personal rights, principles of equal treatment and counteracting discrimination and mobbing.

Employers are to have three months from the entry into force of the Act to adapt to the new regulations. The amendment is to enter into force 21 days from the date of publication in the Journal of Laws.





# Small gifts for employees may be considered a donation

**Small gifts in kind given to employees on the occasion of holidays, Children's Day or personal events (such as the birth of a child or a wedding), which are not a form of additional remuneration for work and do not generate income from unpaid benefits - are treated as a donation.**

In the response to journalists' questions given on 5 December 2024, the Ministry of Finance presented a comprehensive position on the taxation of employee benefits, including gifts and presents from employers. These explanations are particularly important for both parties to the employment relationship in the context of tax settlements.

The Act on Personal Income Tax (PIT) defines income from employment as all cash benefits and benefits in kind, regardless of the source of financing. However, the Ministry of Finance notes that some benefits may be tax-exempt or classified as a donation.

The nature of the benefits provided is of fundamental importance here. The ministry points to two main cases. The first includes small gifts in kind given on the occasion of holidays, Children's Day or personal events of the employee (wedding, birth of a child). If they are not an additional form of gratification for work, they may be considered a donation. As a result, they are not subject to PIT, but to inheritance and donation tax. The situation is different for benefits related to the performance of official duties or dependent on employee involvement. These are treated as income from employment and are subject to standard taxation.

In terms of corporate income tax (CIT), expenses for employee benefits can generally be included in the employer's tax-deductible expenses. However, they must demonstrate a cause-and-effect relationship with the revenues earned or serve to maintain a source of revenue. Benefits considered as donations, in accordance with Article 16(1)(14) of the Act on CIT, cannot be tax-deductible expenses.

The Ministry of Finance emphasises the need for an individual analysis of each case, taking into account the nature of the benefits, their recurrence and equivalence. The source of financing for gifts is also important. The Director of the National Revenue Information Centre analyses each case separately, taking into account specific circumstances.

It is worth adding that this position takes into account the judgment of the Constitutional Tribunal of 8 July 2014 (reference number K 7/13), which influenced the interpretation of the regulations on unpaid employee benefits. The Ministry also announces a review of some previous tax interpretations in this regard by the Head of the National Tax Administration.



## IN SHORT

### **The government abandoned plans to fully cover civil law contracts with the contribution system**

The Council of Ministers adopted a resolution amending the National Recovery and Resilience Plan, submitted by the Minister of Development Funds and Regional Policy. The government abandons the plan to cover all mandate contracts and contracts for specific work. The proposed alternative solutions include a reform ensuring the effective transformation of apparent civil law contracts into employment contracts, while increasing the effectiveness of the National Labor Inspectorate's activities, and amending the Labour Code, which provides for more favourable rules for calculating the length of service of employees employed in the past under civil law contracts. It is also proposed to postpone the implementation of the reform to the second quarter of 2026.

### **The maximum base for voluntary sickness insurance is already known**

The maximum base for voluntary sickness insurance in 2025, i.e. in the period from 1 January to 31 December, is PLN 21,682.50 (equivalent to 250% of the forecast average salary). The sickness insurance contribution is voluntary for entrepreneurs running a business. The amount of sickness benefit depends on its amount. Entrepreneurs who decide to declare a sickness contribution base higher than the minimum must, however, remember that the same base will apply to the retirement and disability pension contributions paid.

### **A team of experts has started work on equal pay regulations**

The Ministry of Family, Labour and Social Policy initiated a key stage of the implementation of European equality standards in Poland. On 16 January 2025, the inaugural meeting of the Team for the implementation of the Equal Pay Directive was held at the Ministry's headquarters. The main goal of the established body is to comprehensively prepare Poland for the implementation of the Directive of the European Parliament and of the EU Council on strengthening the principle of equal pay for women and men for equal work or work of equal value. The team focuses on four key tasks: in-depth analysis of the provisions of the directive, development of drafts of necessary legal acts, preparation of recommendations regarding the processing of developed projects and examination of the potential economic and legal effects of the proposed solutions.

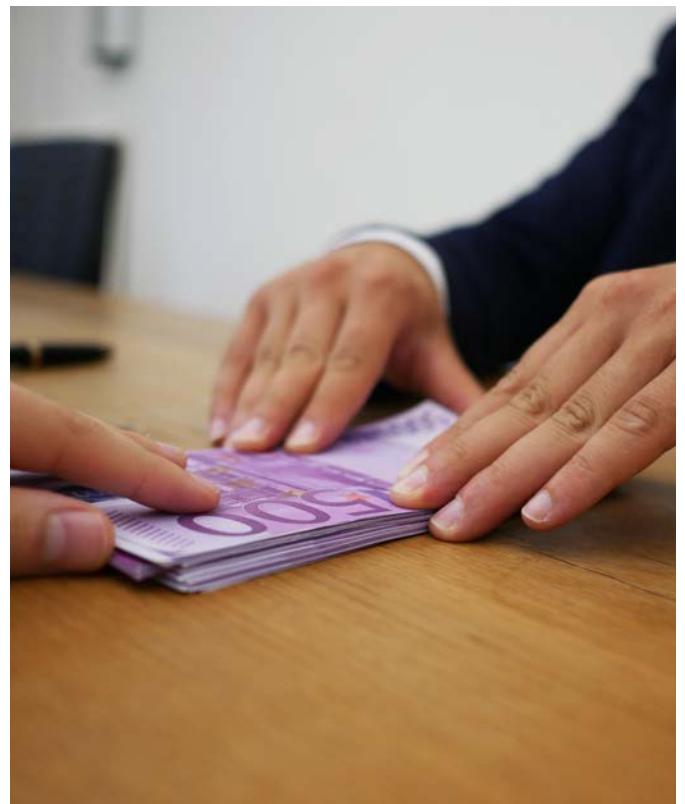
### **A member of the supervisory board delegated to the management board will pay the health insurance contribution**

The National Health Fund stated that the remuneration of persons delegated from supervisory boards to temporarily (for no longer than three months) serve on management boards is subject to contributions (Decision No. 19/2024/BP). In the case in which such a decision was made, the delegate - pursuant to a special resolution of the supervisory board - began to receive

monthly remuneration for performing management activities. However, he did not sign an employment contract, any other managerial contract, or a civil law contract. According to the website praw.pl, in the same decision, the National Health Fund allowed members of the supervisory board to exercise control over the company in Poland without contributions. According to the National Health Fund, in such a case the member of the supervisory board is not covered by health insurance because he does not reside in Poland.

### **In the case of electronic mail, the deadline for submitting the tax letter is the date of sending**

In accordance with the provisions of the Tax Ordinance, a delay in the acceptance of sending correspondence by the e-Delivery service provider does not affect the compliance with the deadline - informed the Ministry of Finance in a special announcement. Compliance with the deadline is determined based on the date of sending the correspondence by the sender in the e-Delivery service system, and not on the date of acceptance of sending the correspondence by the e-Delivery service provider. Therefore, obtaining "Confirmation of receipt" of a letter sent to the electronic delivery address of the tax authority, even with a delay of several days, in particular after the deadline, will not cause any negative consequences for the submitter, as long as the sender has proof of receipt from the service provider of the registered electronic delivery service, indicating the date of sending the correspondence within the statutory deadline.





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### **The entrepreneur does not pay health insurance contributions on the value of the equipment sold**

In connection with the regulations in force from 1 January 2025 which stipulate that entrepreneurs do not have to pay health insurance contributions on the sale of fixed assets, the Ministry of Health explained that this exclusion applies not only to equipment worth up to PLN 10,000, such as computers or printers, but to all property used in business, including equipment worth less than PLN 1,500. In accordance with applicable regulations, assets with a value exceeding PLN 10,000 and used for more than one year are mandatory to be considered fixed assets. However, an entrepreneur may also include in fixed assets those components that have a lower value and will be used for more than one year. However, assets worth more than PLN 1,500 that are not considered fixed assets are classified as equipment.

### **The tax authorities place a QR code on reminders regarding unpaid debts**

From December 2024, the National Revenue Administration authorities will place a QR code on the reminder referred to in the provisions of the Act on Enforcement Proceedings in Administration, addressed to obligors who have not settled their arrears. After scanning the QR code, taxpayers will be redirected to the e-Tax Office website, where, after logging in to their account, they can directly view the status of their tax settlements

in the "Settlements" tab. They can also pay in the form of their choice. Pursuant to applicable regulations, administrative enforcement may be initiated if the creditor, after the expiry of the deadline for the obligated person to perform the obligation, has sent him a written warning containing a request to fulfil the obligation with the threat of referral to enforcement proceedings and other data necessary for the proper performance of the obligation by the obligated person, unless special regulations stipulate otherwise. Enforcement proceedings may be initiated only after 7 days from the date of delivery of this notice.

### **Supplementary maternity leave will be recorded in the employee documentation**

From 19 March 2025, new regulations will come into force regarding the retention of employee documentation related to supplementary maternity leave for parents of premature babies. In accordance with the draft regulation of the Ministry of Family, Labour and Social Policy, applications for this leave will be retained in part B of personal files. Supplementary maternity leave is granted after the end of maternity leave in the event of: birth of a child before the 28th week of pregnancy (or weighing up to 1000 g) - one week of leave for each week of hospitalisation up to the 15th week after delivery; birth between the 28th and 37th week of pregnancy (with a weight over 1000 g) - week for week of hospitalisation until the 8th week after delivery; birth after the 37th week with a minimum



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2-day hospital stay between the 5th and 28th day of life. The application must be submitted at least 21 days before the end of maternity leave, attaching a declaration that the other parent does not take the leave and a hospital certificate with details of childbirth and hospitalisation.

### **Co-financing activities of contribution payers related to improving occupational health and safety**

ZUS announced contest no. 2025.01 for projects related to maintaining working capacity, implemented in 2026. Applications can be submitted from 10 February to 10 March 2025. The aim of the contest is to co-finance activities aimed at improving occupational health and safety, reducing accidents at work, occupational diseases and risk factors. The co-financing covers

technical areas related to: safety of installations and machines, protection against noise and vibrations, lighting of workstations, protection against electricity, air ventilation, safety of working at heights, limiting the load on the musculoskeletal system, protection against chemical and biological agents and personal protective equipment. Contribution payers who are not in arrears with the payment of ZUS contributions and taxes, and who are not excluded due to bankruptcy or liquidation, can apply for support. The requirement is the period of at least 3 years from the previous co-financing.

### **Formal errors in the ZAW-RD notification do not exclude lump-sum taxation**

The Ministry of Finance explained in response to parliamentary interpellation no. 7086 (of 16 January 2025) that the mere submission of the ZAW-RD notification does not determine the effective choice of a lump-sum tax on companies' income. It is necessary to jointly meet all the conditions set out in Article 28j(1) of the Act on CIT, while there are no negative premises under Article 28k. The ZAW-RD notification is treated as an application, not a tax declaration, which means that formal errors can be corrected as long as they do not affect the substantive legal consequences. However, the tax authorities cannot issue a certificate confirming the fulfilment of the conditions for the lump-sum payment, because verification of some of them (e.g. Article 28j(1)(3)) is only possible after the end of the tax year.

### **The e-Tax Office (e-Urząd Skarbowy) application available on mobile devices**

The Ministry of Finance has launched the e-Tax Office mobile application, enabling access to tax services via smartphones. In the first stage of implementation, the application offers full functionality for accounts of natural persons, including submitting tax returns (PIT, CIT, VAT, PCC, SD), receiving e-correspondence and access to information on settlements and payments. Security is ensured by one-time authentication via login.gov.pl and the option of biometric or PIN login. The application is available free of charge in Polish, English and Ukrainian in the Google Play and App Store for Android (min. 9.0) and iOS (min. 13). In the next stages, it is planned to expand the functionality and develop the notification system.

### **Tax audits for micro-entrepreneurs are to be shorter**

The government is working on a bill that proposes limiting the inspection time for micro-entrepreneurs to 6 days in one calendar year. Moreover, the response of the Ministry of Finance to the parliamentary interpellation shows that, in accordance with the recommendations issued, tax offices have already been obliged to shorten the duration of inspections carried out against micro-entrepreneurs. Tax offices are also supposed to first take actions that involve the taxpayer less than an audit, such as verification activities, and a tax audit should only be initiated when it is absolutely necessary.





# IMPORTANT INTERPRETATIONS AND RULINGS

## It is not the nature of the event, but the purpose of the expenditure that determines whether it can be recognised as a PURCHASE

↓ The costs of organising the company's anniversary gala cannot be fully included in tax-deductible expenses only based on the proportion of the number of employees to all participants - explained the Director of the National Revenue Information Centre in the interpretation of 24 January 2025 (reference number 0114-KDIP2-1.4010.655.2024.3.DK). The authority stated that it is crucial to distinguish expenses directly related to the business activity from representation costs. Expenditures related to employees (excluding alcohol) and information and advertising costs, such as the production of a film about the production line or materials with the company logo, were considered tax-deductible expenses. However, expenses for third-party guests (catering, accommodation, entertainment) were classified as representative and excluded from the tax-deductible expenses pursuant to Article 16(1)(28) of the Act on CIT, because they mainly serve to build the company's image.

## Compensation for wrongful dismissal is taxable

↓ In the judgment of 22 January 2025 (reference number II FSK 532/22), the Supreme Administrative Court ruled that compensation from the employer for illegal dismissal is not exempt from income tax. The court emphasised that exempting the amount of compensation for benefits lost as a result of unfair job loss would lead to a more favourable situation for the taxpayer than the one he would be in if the damage had not occurred. If the taxpayer had not been dismissed from work, the remuneration would be taxed, while compensation equal to the remuneration for the period of unemployment would be exempt from tax. In the case under consideration, compensation for the damage suffered (loss of job) was calculated by multiplying the number of months in which the taxpayer was unemployed by the amount of monthly remuneration that he would have received for that time.

## Equivalent for washing work clothes for contractors without PIT

↓ The Director of the National Tax Information in the interpretation of 7 January 2025 (no. 0112-KDIL2-1.4011.868.2024.2.MKA) presented a position on the taxation of the equivalent for washing work clothes paid to contractors. According to the interpretation, the amounts paid to contractors as reimbursement of the costs of washing work clothes - both in the form of an agreed equivalent and on the basis of actually incurred and documented costs - con-

stitute income from activities carried out personally, but are exempt from personal income tax. The legal basis for this exemption is Article 21(1)(11) of the Act on Personal Income Tax. Importantly, the payer is not obliged to collect the income tax advance on such benefits. The condition is that the rules for granting the equivalent result from the regulations on occupational health and safety introduced in accordance with the Labour Code, and the amounts themselves constitute actual compensation for the costs of washing work clothes incurred by contractors.

## MBA studies at the company's expense generate income for the manager

↓ A management board member whose MBA studies were covered by the company from its own funds or refinanced, therefore receives income from free benefits, which is subject to personal income tax - stated the Supreme Administrative Court in its judgment of January 2025 (reference number II FSK 510/22). The Supreme Administrative Court did not question the fact that further education for a person who already serves as a management board member is beneficial to the company. Above all, it is, however, the manager's individual benefit. The training is so specific and individual that it is useful in improving the manager's knowledge level and it will be an element of his CV that he will be able to boast about at every stage of his career or professional activity. The Supreme Administrative Court also confirmed that the moment of fulfilment of the benefit is the end of each semester of studies and this moment must be treated as the moment of obtaining income.

## Employee expenditures documented by scans can be included in the expenses

↓ In an individual interpretation of 13 January 2025 (0114-KDIP2-1.4010.644.2024.1.PK), the Director of National Revenue Information Centre confirmed the right to recognise expenses related to employees' official tasks as tax-deductible expenses, even if they are documented in employee reports containing scans or photos of documents. The condition for recognising such expenses is: they are not listed in the catalogue of exclusions under Article 16 of the Act on CIT; compliance with internal company policy; verification and acceptance by authorized persons; compliance with documentation storage requirements. This position is based on an open catalogue of evidence in tax proceedings (Article 181 of the Tax Ordinance) and the principle that an accounting document appropriate for entering a cost in the accounting books is also an appropriate document for tax purposes.

## The loss from the sale of a fixed asset reduces the health insurance contribution base

↓ ZUS, in the individual interpretation of 16 January 2025 (ref. no. DI/200000/43/1228/2024), confirmed that the loss from the paid sale of a fixed asset reduces the base for calculating health insurance contributions in the month of sale. This is particularly important in the case of fixed assets depreciated before 2022, because depreciation write-offs made before this period are treated as the undepreciated value of the asset sold. The legal basis for this interpretation is Article 35 of the Act of 9 February 2022 Amending the Commercial Companies Code which indicates that when calculating the health insurance contribution, income from the sale of fixed assets is not increased by depreciation write-offs recognised in costs before 1 January 2022.





# CALENDAR

## 20 February 2025 (Thursday)

- ✓ Payment of ZUS contributions for January 2025 - other contribution payers
- ✓ Payment of the lump-sum on companies' income due to: concealed profits and expenses unrelated to the business activity - if pay-out or expense was incurred or a consideration was provided in January 2025; change of value of assets - if acquisition, transformation was carried out or in-kind contribution was made in January 2025.
- ✓ Payment of collected contributions on revenues under employment relationships for January 2025.
- ✓ Payment by payers of collected income tax advances or lump-sum income tax for January 2025.
- ✓ Payment of the tax advance collected for January 2025 by the parent company representing the tax capital group.
- ✓ Payment of due lump-sum tax by the payer referred to in Article 17(1) of the Act on CIT.
- ✓ Payment of the tax advance for January 2025 by the property company and sending the taxpayer information about the advance payment PIT-1SN and CIT-1SN, respectively
- ✓ Payment of income tax on revenues on a fixed asset in the form of a building for January 2025.
- ✓ Payment of tax on consideration or property the family foundation transferred or put at the disposal in January 2025.
- ✓ PFRON (State Fund for Rehabilitation of Disabled Persons) payment for January 2025.



## 25 February 2025 (Tuesday)

- ✓ VAT payment for January 2025.
- ✓ Filing the VAT-8, VAT-9M, VAT-12 declarations for January 2025.
- ✓ Sending the JPK\_V7M file for January 2025.
- ✓ Sending the JPK\_V7K file for January 2025 (record part).
- ✓ Sending summary information on intra-Community VAT-EU transactions for January 2025.
- ✓ Filing the VAT-13 declaration by a tax representative for January 2025.
- ✓ Submitting documents regarding co-financing of remuneration of disabled employees to PFRON for January 2025.
- ✓ Settlement of sugar tax due for January 2025.
- ✓ Settlement of tax on retail sale PSD-1 for January 2025.



## 28 February 2025 (Friday)

- ✓ Providing the taxpayer with information on revenues from other sources as well as on income and income tax advances collected in 2024 (PIT-11).
- ✓ Providing the taxpayer with information on certain income from cash capital in 2024 (PIT-8C).
- ✓ Providing the tax office and a person with limited tax liability with personalised information on the amount of revenue (income) earned in 2024 (IFT-1R).
- ✓ Providing the taxpayer with information on amounts paid for performing social and civic duties for 2024 (PIT-R).
- ✓ Providing information to ZUS on the amount of income obtained from paid work by retirees and disability pensioners in 2024.
- ✓ Submitting the application for a refund of paid retirement and disability pension contributions for December 2024 to PFRON.
- ✓ Filing the declaration for VAT settlement regarding the VII-DO import procedure for January 2025.



## 5 March 2025 (Wednesday)

- ✓ Filing the VAT-14 declaration on the amounts of VAT due in the case of intra-Community purchase of motor fuels for February 2025



## 7 March 2025 (Friday)

- ✓ Payment of the lump-sum income tax collected in February 2025 on receivables paid to a foreign legal person.
- ✓ Payment of the lump-sum income tax collected in February 2025 on revenue from dividends and other revenues from share in the profits of legal persons.
- ✓ Payment by the acquiring company of the lump-sum tax on income originating in February 2025.
- ✓ Filing PIT-NZ and PIT-NZS declarations for February 2025 and payment of tax.
- ✓ Filing CIT-NZ declaration for February 2025 and payment of tax.



# KALENDARIUM

## 10 March 2025 (Monday)

- ✓ Filing the INTRASTAT declaration for February 2025.

## 15 March 2025 (Saturday)

- ✓ Payment of the product fee for packaging for 2024.
- ✓ Filing the annual report on the number of plastic bags purchased and issued in 2024 subject to a recycling fee - via the BDO system

## 17 March 2025 (Monday)

- ✓ Payment of ZUS contributions for February 2025 - contribution payers having legal personality.
- ✓ Payment to PPK (Employee Capital Plans)



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