



## Information

### Outstanding annual leave must be granted by end of September under penalty of a fine

**E**mployers should grant outstanding leave to their employees by 30 September. Where an employer, contrary to binding regulations, fails to grant outstanding leave by the statutory deadline, the employer will violate employee rights and face a fine.

In accordance with Article 161 of the Labor Code, employers are required to grant annual leave to their employees in the calendar year in which the employee acquired eligibility for it. Annual leave unused by the end of the year becomes outstanding leave, which in accordance with Article 168 of the Labor Code needs to be granted by the 30th of September of the following calendar year at the latest. Importantly, an employee may be placed on outstanding leave even without his/her consent.

Despite these regulations, the employee will not lose the annual leave that is not granted by this deadline, as Article 291 of the Labor Code provides that the statute of limitations on claims arising out of an employment relationship expires after 3 years from the day on which the claim became mature. In consequence, employ-

ees have more than three years to use outstanding leave. This is because the statute of limitations period on an annual leave claim will always begin on 30 September of the year following the calendar year in which eligibility for the leave was acquired. What is more, in accordance with Article 293(1) of the Labor Code, the statute of limitations period on an annual leave claim does not begin, and one that has begun is suspended, for the duration of parental leave.

This means that the right to annual leave acquired by the employee on 30 September 2024 will expire on 30 September 2027.

Whereas failure to grant outstanding leave by 30 September has much further reaching consequences for the employer. This is because the regulations provide that if an employer, contrary to binding regulations, fails to grant outstanding leave by the statutory deadline, he will violate employee rights and face a fine.

Under binding regulations, a court may impose on the violator a fine of from PLN 1 000 to 30 000. Alternatively, a labor inspector may also just impose a fine of up to PLN 2 000.



## Company breach reporting procedures needed as of September

The provisions of the Whistleblower Protection Act went into effect on 25 September 2024. They require businesses to establish procedures for the internal reporting of breaches and taking follow-up action, referred to as internal reporting procedures. Published in the Journal of Laws on 24 June 2024 was the Whistleblower Protection Act of 14 June 2024, which implements into Polish law the EU Directive on the protection of persons who report breaches of law. The majority of the new provisions will go into effect as of 25 September 2024. Among others, the new act regulates: the conditions for the protection of whistleblowers who report or disclose breaches to the public; the protection measures for whistleblowers who report or disclose breaches to the public; the rules for establishing internal procedures for reporting and following-up on breaches; the rules for reporting breaches to public authorities; the rules for the public disclosure of breaches. One of the elements of the system introduced by the Whistleblower Act is the so-called internal reporting. The requirement to prepare an appropriate procedure will cover all entities that have at least 50 people in gainful employment as at 1 January or 1 July of a given year. The Whistleblower Act describes eight mandato-

ry elements of an internal reporting procedure, as well as four additional elements that such a procedure may entail. And so the procedure should, above all, cover the entity (person) to whom breaches should be reported, the reporting methods and the person who will handle the report after it is received, who must be impartial. It will also be necessary to establish a procedure for the handling of anonymous reports. It should also specify a deadline of no more than 7 days for confirming the receipt of a report and no more than three months (from confirmation of receipt) for providing the whistleblower with feedback, i.e. information on what follow-up actions were taken and their results. The company (or another entity) required to implement an internal reporting procedure will have to do so after consulting the relevant trade union or unions, if there is more than one at the company, or employee representatives chosen in accordance with the relevant procedure adopted by the company, if it has no trade unions. These consultations will have to last no less than 5 and no more than 10 days from the company's presentation of a draft internal reporting procedure. The internal reporting procedure will go into effect 7 days after it is communicated to the company's employees in the manner adopted by the company.



## Contractors will have to be paid by a set date

The Ministry of Labor wants the remuneration arising out of commission and service contracts concluded for a period longer than a month to be paid out at least once a month, no later however than within 10 days of the following calendar month. In addition, the ministry wants the minimum wage to be equal to base pay.

The Ministry of Family, Labor and Social Policy has prepared a draft bill on the minimum wage (UC62). It indicates that in addition to establishing new rules for setting minimum wage, the ministry wants the remuneration for commission or service contracts concluded for more than a month to be paid out at an amount arising out of the minimum hourly rate at least once a month, immediately after determining its full amount, but no later than within 10 days of the next calendar month.

This means that payment should take place no later than by the 10th day of the month for the previous month. Currently binding

regulations provide only that for contracts concluded for more than a month, remuneration at an amount arising out of the minimum hourly rate is to be paid out at least once a month.

The draft also provides that the amount of the base pay of an employee working full time cannot be lower than the amount of the minimum wage set in accordance with binding regulations.

This means the introduction of minimum wage as base pay. Currently the minimum wage and base pay are not the same, and the amount of minimum wage may include, for example, bonuses, special duty allowances or awards. This is because under today's regulations an employee's wages are calculated using the wage components and other benefits due to the employee under the employment relationship, classified as personal wages according to the principles of employment and remuneration statistics set by the Main Statistical Office (GUS). At the same time the law provides that the following are not considered in the calculation of employee wages: jubilee bonuses; severance pay to which employees are entitled when retiring or receiving disability benefits; overtime pay; night work allowance; seniority allowance; special working conditions allowance.

In addition, the new law calls for higher penalties for traders. Today's regulations state that any trader or trader's representative who remunerates a contractor or service provider at an amount that is lower than the applicable minimum hourly rate is subject to a fine from PLN 1000 to 30 000. Under the new regulations these fines are to amount to from PLN 1500 to 45 000.

According to the ministry, currently the fines apply only to underpayments of such wages and do not allow for penalizing traders in cases when no wages have been paid at all. The new law would include provisions covering situations where there is no timely payment of wages at all.



**Ministry of Family announces major changes in certifying incapacity for work**

↓ The Ministry of Family has announced a reform of the incapacity for work certification system. Among other things, certification centers will be formed at ZUS. It will not be just specialist doctors who will be able to issue incapacity for work decisions in the first instance, as is the case today, but also doctors in the course of obtaining specialization and other active doctors who have been practicing for at least five years. They will also not have to, as is required now, be working exclusively on the basis of an employment contract – a civil law contract will be permitted. In certain situations, a specialist practicing an independent medical profession will also be able to certify incapacity for work. Certification commissions will be made up of one member (it is three members now), and the law is to ensure that the certifying doctor's specialization is linked to the illness that is the reason for the certification. The government intends to address the amendments in the third quarter of the year.

**Supplementary payment to ZFŚS due by the end of September**

↓ In accordance with the Company Social Benefits Fund Act, employers transfer their contributions to the bank

account of the company social benefits fund by 30 September. It is only once it is actually transferred to the fund's separate bank account that it's equivalent may be claimed as a tax-deductible cost. Contributions are calculated based on the average monthly salary in the national economy. In 2024, for the first time since the pandemic, the value of the contribution is determined based on the salary for the previous year. This means that in 2024 the base for the calculation of the basic contribution is PLN 6445,71.

**New regulations on storing occupational medicine documentation**

↓ Published in the Journal of Laws, item 1311, was the Minister's of Health Decree of 28 August 2024 amending the Decree on the types of medical documents kept by occupational medicine services, the manner in which they are kept and stored, and on the specimen of such documents. Among other things, the amended decree provides that occupational medicine records, including those of employees who are exposed to reprotoxic substances, are to be stored for 20 years counting from the end of the calendar year of the last entry.

**Electronic books of account in accordance with new logical structures**

↓ The minister of finance has signed a decree on the additional data traders will have to include in their books of account. The requirement will first cover CIT taxable

persons with revenues in excess of EUR 50 million, as well as tax groups (Journal of Laws item 1314). Under the decree, the new requirements will be introduced gradually. Entities with revenues of more than EUR 50 million in the previous tax year, as well as tax groups, will have to as early as 1 January 2025 adjust their accounting systems to be able to generate their books of account according to the required structure. The first JPK\_KR\_PD reports will be submitted in March 2026 for the 2025 tax year.

**Foreigners to be hired only on the basis of employment contracts**

↓ The government has presented a new version of a draft bill on hiring foreigners. It indicates that foreigners will be able to be employed only on the basis of employment contracts. It is only in the case of such contracts that work permits will be issued. The employer will have to send a copy of the employment contract to the voivodship or county employment office. Currently employers can hire foreigners on various bases, such as employment contracts, service contracts or as self-employed (contractors).

**As of September slightly lower limits for those who supplement their pensions**

↓ From 1 September to 30 November 2024 the income equivalent to 70 percent of the average monthly wage announced for the 2nd quarter of 2024 amounts to PLN

5626,90 (until now PLN 5703,20) – income above this amount will reduce pension or disability benefits). Whereas 130 percent of the average monthly wage announced for the 2nd quarter of 2024 amounts to PLN 10 450 (previously PLN 10 591,60) – income above this amount will result in a suspension of pension or disability benefits. Those who supplement their benefits while receiving early retirement or disability benefits must watch the amount of their income.

#### **Fewer specified work contracts reported to ZUS in first half of 2024**

↓ A total of 548,6 thousand RUD forms were filed with the Social Insurance Office (ZUS) in the first half of 2024, on which 696 thousand specified work contracts were reported – indicates a report published by ZUS. The vast majority of the reporting parties ((98 percent) are premium remitters registered with ZUS. The remainder are mainly individuals who are not premium remitters. The data show that among the reported specified work contracts the largest number related to information and communications (21,2 percent), professional, scientific and technical activities (19,8 percent), activities related to culture, entertainment and recreation (13,5 percent) and education (11,9 percent).

#### **As much as PLN 3700 for failure to appear before the tax authorities in 2025**

↓ In 2025, a party, a party's attorney, witness or expert will be punishable with a fine of up to PLN 3700 if, despite being properly summoned by a tax authority: they fail to appear in person without a valid reason, despite being required to do so, or; without a valid reason refuse or fail to provide within the time specified in the summons an explanation, testimony, issue an opinion, present the object of inspection, provide a translation of foreign documentation or take part in another activity, or; without a valid reason refuse or fail to produce or present within the specified time the documents they are required to have by law, tax books, accounting evidence underlying the entries in those books, or; without permission of this authority depart from the place of this activity before it is completed.

#### **Accident report without PESEL and personal ID numbers**

↓ In response to a question from pravo.pl, the State Labor Inspectorate explained

that the accident team cannot enter in the accident report the PESEL and personal identification document number of the person who suffered the accident at work, as this would constitute a violation of the data minimization principle. In addition, ZUS should not require the reports to contain the personal ID number, if the report already lists the PESEL identifying the employee who suffered the accident.

#### **Retirement calculator now operational in the mZUS mobile app**

↓ The retirement calculator can now be used on our mobile app - the Social Insurance Office has announced. The mZUS app can be used to calculate the projected amount of pension in the retirement calculator, book an e-visit at ZUS, i.e. a video call with a ZUS employee, call the ZUS helpline (ZUS Customer Contact Center) as an authenticated customer and get the status of a specific case or information on one's data. To use the new functionalities the application needs to be updated.



## Important interpretations and rulings:

### Damage compensation based on a court settlement not always without ZUS

➔ Damages or compensation for termination of employment can be excluded from the social insurance calculation base only when the payment of these benefits is directly related to the expiration of the employment relationship and the end of employment is the sole reason for their payment. In order for this exclusion to be possible, the compensation claim must be related strictly to the dissolution of the employment relationship, i.e. a situation where the manner and circumstances of the dissolution violated labor laws. Whereas if it is accompanied by other circumstances, the benefit is not subject to being excluded from the premium calculation base – states an individual interpretation issued by ZUS on 30 July 2024 (number DI/200000/43/683/2024) (decision No. 683/2024).

### Renting rooms to employees on a business trip is not agritourism

➔ Income from renting guest rooms in a residential building located in a rural area on a farm, to accommodate employees on business trips (delegated to perform construction work) is not exempt from PIT – indicates an individual interpretation issued by the Director of National Tax Administration on 13 August 2024 (case file 0112-KDIL2-1.4011.506.2024.1.KF). The phrase “recreational stay” in Article 21 par. 1 point 43 of the Personal Income Tax Act should be read as pertaining to those whose only purpose for using guest rooms is recreation. They cannot, therefore, be individuals who have rented rooms in connection with responsibilities relating to a job, study or other non-recreational purposes.

### Employees must self-declare referral bonuses

➔ A bonus paid to employees for referring a job candidate is not employment income, but



rather qualifies as income from another source. This means that the employer does not have to collect a tax advance or ZUS premiums on it. The employee should declare it by him/herself in his/her annual PIT return – indicates an individual tax interpretation dated 30 July 2024 (case file 0112-KDIL2-1.4011.595.2024.1.DJ). In the case covered by the interpretation, the rules of the employee referral program were set out in the regulations and communicated to the employees in the manner customarily used at the company. They were not specified in the employment or civil law contract. In such situations, according to the tax authorities, there are no bases to include such benefits in employment income. Thus they are classified as so-called other income.

### Part-time employees also entitled to overtime pay

➔ Part-time employees who perform work that exceeds the time set out in their contracts and do not receive overtime pay are treated unequally compared to those employed full time. Overtime pay, not unlike all pay, must be equivalent for both full and part time employees. It is to be calculated in proportion to the time worked – the Court of Justice of the EU found in its ruling of 29 July 2024 (case C-184/22 i C-185/22). The Court further found that absence of overtime pay may constitute indirect discrimination of women. It is not at all necessary for there to be significantly more men than women amongst the part-time employees for indirect discrimination to exist – explained the CJEU.

## CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for August 2024
- ✓ Payment for August 2024 of monthly advance for personal income tax and corporate income tax
- ✓ Payment of lump-sum tax on income from: hidden profits and expenses not related to business activities – if a withdrawal, expense or performance was made in August 2024; change in the value of assets – if an acquisition, transformation or contribution in kind was made in August 2024
- ✓ Payment for August 2024 of advances collected on employment income
- ✓ Payment for August 2024 by remitters of advances collected for income tax or lump-sum income tax
- ✓ Payment by a holding company representing a tax group of the tax advance collected for August 2024
- ✓ Payment of lump-sum tax if in August 2024 dividend income and other income from shares of profits of legal entities was spent inconsistently with the purpose specified in declaration (CIT-5)
- ✓ Payment of tax advance for August 2024 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for August 2024 of income tax on income from a fixed asset that is a building
- ✓ Payment for August 2024 to PFRON
- ✓ Payment of tax on a performance or asset provided or placed at disposal by a family foundation in August 2024



## CALENDAR

SEPTEMBER 2024						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	<b>20</b>	21
22	23	24	<b>25</b>	26	27	28
29	<b>30</b>					

- ✓ Payment of VAT for August 2024
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for August 2024
- ✓ Transmission of SAF\_V7M for August 2024
- ✓ Transmission of SAF\_V7K for August 2024 (record section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for August 2024
- ✓ Filing by tax representative of VAT-13 for August 2024
- ✓ Reporting of sugar tax for August 2024
- ✓ Reporting of retail sales tax PSD-1 for August 2024
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for August 2024



- ✓ Filing of VAT declaration relating to import procedure VII-DO for August 2024
- ✓ Deposit to a separate ZFSS bank account of the remainder of contributions and increases
- ✓ Granting of outstanding leave for 2024, except for on-demand leave
- ✓ Filing with the tax office of: CIT-CFC for 2023 and PIT-CFC for 2023



- ✓ Filing of VAT-14 on output VAT due on intra-Community acquisition of engine fuels for September 2024
- ✓ Payment of lump-sum income tax collected in September 2024 on dividend income and other amounts from shares of profits of legal entities, and provision of CIT-7 to taxable persons
- ✓ Payment by acquirer of lump-sum income tax for September 2024
- ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for September 2024
- ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for September 2024 and payment of output tax indicated in the declaration



- ✓ Filing of INTRASTAT for September 2024





**PIOTR GRACZ**  
Head of Business  
Services & outsourcing  
department

- ✓ Payment of ZUS premiums for September 2024 – remitters with legal personality
- ✓ Payment to PPK



## CALENDAR



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- ▶ tax services (tax compliance),

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- ▶ labor law advisory services,
- ▶ tax, legal and financial advisory services,
- ▶ management advisory services and accounting,
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