



Information

As of 2025 all service contracts subject to ZUS

As of 2025 the government intends to introduce a requirement to pay social insurance premiums on every service contract. This is one of the obligations arising out of the National Recovery Plan (KPO).

Service contracts are currently subject to mandatory ZUS when the contract is the contractor's only source of income. Additional contracts, if not concluded with the contractor's employer and if the value of the first is higher than the minimum wage, are not subject to ZUS premiums. This means that as long as premiums are paid on at least the minimum wage, no ZUS has to be paid on the service contract.

Once the regulations change, social insurance (retirement, disability, accident and sickness) will have to be paid on all service contracts, irrespective of their amount. The exception will be service contracts with high school and college students up to the age of 26. The new regulations are to be enacted in the fourth quarter of 2024 and go into effect on 1 January 2025. No additional details of this solution are yet known.

The above change will result in higher employer costs and lower pay for contractors. Today

a person who already has a full-time job and concludes an additional service contract for, for example PLN 5000, receives PLN 4370 in net pay (assuming that 20% tax-deductible costs are applied). All that is withheld is the health insurance premium (PLN 450) and a PIT advance (PLN 180). The cost to the employer is PLN 5000.

If the new regulations go into effect, the same PLN 5000 service contract will net PLN 3812,19 (i.e. 557,81 less than now) for the contractor. The following premiums will be withheld: retirement insurance (PLN 488), disability insurance (PLN 75), sickness insurance (PLN 122,50) and health insurance (PLN 388,31), as well as a PIT advance (PLN 114). To the employer, the cost of the contract will increase from PLN 5000 to PLN 6024, i.e. by more than PLN 1000.

If under these conditions the employer wanted to maintain their costs at the "old" level of PLN 5000, the gross amount of the contract would have to be PLN 4150 instead of PLN 5000, which for the contractor would mean PLN 3214,17 in net pay (i.e. PLN 1155,33 less than today).



Filing deadline for annual health insurance returns is 20 May

The deadline by which certain remitters of premiums – non-agricultural traders – must file their 2023 annual health insurance returns with ZUS – is this month. Monday, 20 May 2024 is the deadline to file forms ZUS DRA or ZUS RCA for April 2024, which includes the annual return.

The website of the Social Insurance Office (ZUS) contains a reminder that 20 May 2024 is the last day to file declarations for April 2024 along with 2023 annual health insurance returns. It is also the deadline for the payment of premiums for April 2024 along with any amount outstanding for the year.

ZUS stresses that every non-agricultural trader who was subject to health insurance and taxed with flat-rate tax, on the tax scale or with lump-sum tax on registered income, is required to file an annual health insurance premium return.

Annual returns are filed in the declaration for April 2024, i.e. on ZUS DRA, by remitters who are sole traders, or ZUS RCA by those remitters who also pay premiums for others (e.g. employees, contractors).

If the annual return reveals that the health

insurance premium was overpaid, the remitter will be entitled to a refund – unless he is in arrears for premiums or improperly collected social insurance benefits. Whereas an underpayment of premiums will mean the need to pay the outstanding amount with the premium for April 2024, i.e. by 20 May 2024.

Importantly, premium remitters are required to file declarations on the amount of health insurance premium for each month of conducting business operations in 2023. The way they are completed affects the verification of annual returns for correctness. Documents correcting the amount of health insurance premiums for the individual months of 2023 may be filed no later than the day the remitter applies for an overpayment refund, or by 1 July 2024, if the remitter is not applying for a refund.

It is also imperative to remember that the annual health insurance premium calculation base is set for a contribution year that lasts from 1 February of a given year to 31 January of the following year; thus in the upcoming return it is the period from 1 February 2023 to 31 January 2024.



ZUS cannot question the amount declared by trader

The Supreme Court considered the extraordinary appeal filed by the Ombudsman for Small and Medium Enterprises in a matter to determine coverage with social insurance on account of operating a non-agricultural business and has ruled that ZUS is not authorized to question the amount declared by the trader.

In a matter reviewed by the Supreme Court (case file II NSNc 171/23) the dispute boiled down to the question whether the disability authority has a right to question the premium calculation base reported by the trader and to determine that value on its own.

In its ruling the Court referred to the standpoint expressed by the Supreme Court in a seven-judge resolution of 21 April 2010 (case file II UZP 1/10). The Supreme Court indicated that insurance relationships are based on the rights and obligations of the insured and the insurance institution regarding insurance premiums and coverage. These legal relationships are characterized by the existence of a special type of dependence where insurance coverage is tied to an obligation to pay premiums. However, in social insurance, this dependence does not assume the characteristics of reciprocity (equivalence) in the sense defined in civil law.

The two elements of an insurance relationship (insurance premium and insurance coverage) are not equivalent (interchangeable), as the principle of equivalence of services is in this relationship modified by the principle of social solidarity. Social insurance relationships cannot, therefore, be classified as obligatory relationships, as in this case there is no strict correlation between the premium and the benefit as is the case in reciprocal civil law obligations. Although the social insurance premium constitutes a personal contribution of the insured, it is meant to create a general insurance fund to be used by those insureds who incur a specific social risk.



The Court further indicated that an analysis of the regulations leads to the conclusion that the social insurance calculation base for non-agricultural traders was defined differently than in the case of those whose premiums are based on income within the meaning of personal income tax regulations, or on the amount of salary, remuneration or another type of benefit. This has to do with the specific nature of self-employment and with difficulties in determining income from this activity. It is for these reasons that the lawmakers have left the determination of the social insurance calculation base to the non-agricultural traders themselves.

In consequence, for these insureds the obligation to pay social insurance premiums and the amount of those premiums are not linked to the income they actually generate, but solely to the existence of a title to insurance and the amount reported by the insured, irrespective of whether the insured generates income and at what amount.

Consolidated text of the acts on employee retirement plans and IKE published

↓ Published in the Journal of Laws (item 556) was an announcement of the Speaker of the Sejm of the Republic of Poland of 21 March 2024 on publishing the consolidated text of the Act on employee retirement plans. The Act sets out the rules for the formation and operation of employee retirement plans, to be fulfilled by entities that implement such plans, as well as the rules for participating in the plans. Whereas published in item 707 was the Speaker's announcement of 26 April 2024 on publishing the consolidated text of the Act on individual retirement accounts and individual retirement security accounts.

New employee protection regulations: action against hazardous substances

↓ The Council of Ministers has adopted a draft bill amending the Labor Code and adapting Polish law to EU norms on protection against carcinogenic and mutagenic agents in the workplace. The new regulations are to protect employees from such reprotoxic substances as toluene or bisphenol A. The details will be set out in a decree. The amendments are to go into effect 14 days after publication in the Journal of Laws.

The draft bill has been sent to the Sejm.

More expenses deductible under R+D relief

↓ The Ministry of Development and Technology has presented a package of changes to research and development relief. They indicate that R+D relief will include expert evaluations, opinions and advisory services, irrespective of who provides them. The draft calls for the removal from the relevant provisions of the CIT Act of the requirement for the expert evaluations, opinions and advisory and equivalent services to be provided by scientific research centers. The changes would go into effect as of 1 January 2025.

More on this on our website.

Changed fees for psychological exams for drivers

↓ The Ministry of Health intends to update the fee that was in effect for the last decade. The draft amendments to the minister's of health decree on psychological exams for those applying for licenses to operate vehicles, drivers and those who work in the position of driver calls for raising the fee from PLN 150

to 200. The new decree would go into effect 14 days after publication in the Journal of Laws.

Employers will not answer for hired foreigners' fake documents

↓ Employers will not be held accountable for the illegal origins of documents presented by the foreigners they hire – according to a draft bill prepared by the Ministry of Development and Technology amending certain acts in order to deregulate and improve the development of business and administrative laws. On 5 April the draft was submitted for consultations, which are to last for 30 days. Most of the new provisions will go into effect on 1 January 2025.

Union members to be informed of employer's use of AI

↓ The Trade Unions Act will be broadened by a provision that enables union members to check detailed information on their employer's use of algorithms or artificial intelligence (AI) systems. These are changes submitted by the



Sejm's digitalization, innovation and modern technologies committee – a draft of amendments to the Trade Unions Act. Employers will be required to provide such information upon a trade organization's request. The bill was sent to the Sejm on 29 April 2024.

Four holidays shrink May working hours to only 160

↓ Given the fact that there are as many as four holidays in May: 1 May – State Holiday; 3 May – National Constitution Day; 19 May – Pentecost Sunday, and 30 May – Corpus Christi, the number of hours to be worked by a full-time employee will amount to 160 – informed the National Labor Inspectorate. It also added that in accordance with the Labor Code, every holiday that occurs in a reporting period on a day other than a Sunday reduces the number of working hours by 8.

Cash-based PIT only for low income and on voluntary basis

↓ The Ministry of Finance has published a draft bill amending the PIT Act and the lump-sum income tax act, to introduce the so-called cash-based PIT. The new solution will be available to those traders whose income does not exceed 250 thousand euro, as well as those just starting business operations. It will be available to those taxed on the tax scale, with 19% flat-rate tax and with



lump-sum tax on registered income. The new regulations will not require cash-based PIT to be used, but rather will only give an option to voluntarily choose this form of taxation.

Amended Accounting Act signed by the President

↓ President Andrzej Duda has signed into law the amendments to the Accounting Act requiring large multinationals to publicly disclose reports on the income tax they pay in different countries. The amendments adapt Polish regulations to the EU directive on counteracting tax avoidance. This information will have to be reported by country. The change applies to reports for financial years beginning after 21 June 2024. The text of the Act has been published in item 619 of the 2024 Journal of Laws. The new provisions will go into effect 14 days after their publication, with some going into effect on 22 June.

Consolidated texts of laws important for taxable persons published

↓ The Speaker of the Sejm of the Republic of Poland has made another announcement

on publishing the consolidated texts of laws that are important for taxable persons. Published in item 596 was an announcement of 10 April 2024 on the publication of the consolidated text of the Inheritance and Gift Tax Act, and in item 628 an announcement of 11 March 2024 on the publication of the consolidated text of the Penal Fiscal Code.

New tax preference application forms coming soon

↓ The Ministry of Finance will make changes to the application forms for the issue of a tax preference opinion (WH-WAZ/WOZ/WOP/WAP, as well as WHWOE and WHWAE). The changes are to consist of improving explanations, consolidating field names and removing from section A of forms WH-WOP, WH-WOZ and WHWOE the Period from and Period to items, as well as reinstating the Year item due to concerns reported with regard to their completion. A breakdown of tax exemption bases will also be added.

Higher financing of disabled employee wages

↓ Increasing the financing from PFRON of the wages of

disabled employees: to PLN 2,760 for disabled persons classified as having a significant degree of disability, and to PLN 1,550 for disabled persons classified as having a moderate degree of disability – provides a draft bill amending the Act on the occupational and social rehabilitation and employment of disabled persons (paper UD55). The new amounts are to be applied for the first time to the monthly subsidies for July 2024. According to the legislative work plan, the govern-

ment will adopt the bill in the second quarter of 2024.

Bill postponing the implementation of mandatory KSeF sent to the Sejm

↓ The Sejm has passed a draft bill amending the VAT Act, which postpones the effective date of mandatory Domestic e-Invoice System (KSeF) until 1 February 2026 for active and VAT-exempt taxable persons. At the same time, the Ministry of Finance announced that this date will apply to the largest taxable persons (sales in excess of 200 million). Whereas for the remaining taxable persons, another amendment will move the effective date to 1 April 2026, as this amendment does not do so. The bill has now been sent to the Senate.

Premium vacations for traders adopted by the Sejm

↓ The Sejm has passed a bill introducing so-called premium vacations for traders. Under the new regulations, traders will be exempt from all social insurance premiums and Labor Fund and Solidarity Fund contributions for a month. This relief will be available to those remitters who have a maximum of ten insureds. The traders will also have to show that in the last two calendar years prior to applying they had no income from non-agricultural business activity, or that in that period their annual income from non-agricultural business activity did not exceed the PLN equivalent of 2 million euro.



Important interpretations and rulings

Personal provision of transport services treated as business travel

➔ A trader who provides transport services by himself has a right to claim per-diem allowances for business travel up to the amount due to employees – according to an individual interpretation issued by the Director of National Tax Information on 29 March 2024 (number 0115-KDIT3.4011.219.2024.1.KP). For an employee, the purpose of a business trip is specified by his employer, whereas for traders the criterion that makes it possible to treat a trip as a business trip is its direct connection to the trader's business activity. Binding regulations provide for no restrictions on those eligible based on the type or place of business activity, nor do they differentiate between a business trip for the purpose of concluding a contract for services, purchasing a fixed asset or supplying services under a contract.

Description of transfer can confirm chosen form of taxation

➔ In its ruling of 22 February 2024 (case file II FSK 710/21) the Supreme Administrative court found that an advance paid on time and an appropriately described transfer constitute a declaration of having chosen flat-rate tax. This applies to situations where the choice was ineffective due to an error in CeiDG, as well as due to an error on the part of the taxable person. The ruling was issued in the matter of a trader who chose taxation with the flat rate of 19% but failed to submit an official declaration to that effect to the tax office. He did, however, pay the first flat-rate tax advance, and in transfer descriptions indicated that he was paying "PIT-36L advances". According to the Court this means that in the description of the transfer the petitioner submitted a declaration of intent, according to which his payment should be applied to flat-rate tax. Interpretation of his declaration of intent leaves no doubt as to whether he has

chosen to be taxed with 19% flat-rate tax. Otherwise he would not have declared and paid advances for PIT 36L. The Court also reiterated that the lawmakers have not introduced any special form to be used to choose the form of taxation.

CEO will pay no PIT on company car used to commute to the office

➔ A CEO who has been provided a company car in order to properly fulfil his official duties, including to commute from his/her place of residence to the place of performance of those duties and back, will generate no taxable income on this account from gratuitous benefits, in respect of which the company would have to meet the obligations of a tax remitter – states an individual interpretation issued by the Director of National Tax Information on 12 April 2024 (number KDIT1.4011.130.2024.1.MN).

Declaration of joint filing to remain valid in future years

➔ A declaration of joint taxation submitted by a taxable person to his/her tax remitter in 2024 in paper form on a separate form prepared and adopted by the tax remitter or electronically in a payroll application will continue to apply in subsequent tax years until amended or withdrawn by the taxable person, in accordance with Article 31a par. 6 of the Personal Income Tax Act – indicates an individual tax interpretation issued by the Director of National Tax Information on 7 March 2024 (number 0112-KDIL2-1.4011.912.2023.1.TR).

Premiums for contractual drivers calculated the same way as for employees

➔ When it comes to determining the basis for the calculation of social insurance premiums for a driver employed on the basis of a service contract, who performs transport as part of international road transport, it is assumed that the driver performs work duties that are specific and characteristic of an employment relationship, and not of a civil law contract. This means the application to those employed under a service contract of the same social insurance calculation rules as are applied to employees, according to the rules specified in the Act on the working time of drivers – the Social Insurance Office has stated in an individual interpretation issued on 27 March 2024 (number DI/100000/43/140/2024).

CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for April 2024 - other premium remitters
- ✓ Filing of annual health insurance premium return for 2023 to ZUS
- ✓ Payment for April 2024 of monthly advance for personal income tax and corporate income tax
- ✓ Payment for the 1st quarter of 2024 of quarterly advance for personal income tax and corporate income tax
- ✓ Payment of underpaid health insurance premium for 2023 as indicated in annual return
- ✓ Payment for April 2024 of advances collected on employment income
- ✓ Payment for April 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 April 2024
- ✓ Payment of lump-sum tax if in April 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 April 2024 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for April 2024 of income tax on income from a fixed asset that is a building
- ✓ Payment for April 2024 to PFRON
- ✓ 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 April 2024; change in the value of assets - if an acquisition, transformation or contribution in kind was made in April 2024
- ✓ Payment of tax on a performance or asset provided or placed at disposal by a family foundation in April 2024



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- ✓ Payment of VAT for April 2024
 - ✓ Filing of VAT-8, VAT-9M, VAT-12 for April 2024
 - ✓ Transmission of SAF_V7M for April 2024
 - ✓ Transmission of SAF_V7K for April 2024 (record section)
 - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for April 2024
 - ✓ Filing by tax representative of VAT-13 for April 2024
 - ✓ Reporting of sugar tax for April 2024
 - ✓ Reporting of retail sales tax PSD-1 for April 2024
 - ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for April 2024



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- ✓ Submission to PFRON by disabled persons who conduct business operations of an application for a refund of pension and disability premiums paid for March 2024
 - ✓ Payment of at least 75% of the basic contribution to the ZFSS separate bank account by employers required to form ZFSS
 - ✓ Filing of VAT declaration relating to import procedure VII-DO for April 2024





- ✓ Submission of request for a refund of overpaid health insurance premium resulting from annual return for 2023



- ✓ Filing of VAT-14 on output VAT due on intra-Community acquisition of engine fuels for 2024



- ✓ Payment of lump-sum income tax collected in May 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 May 2024
- ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for May 2024
- ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for May 2024 and payment of output tax indicated in the declaration



CALENDAR

| JUNE 2024 | | | | | | |
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| 29 | 30 | | | | | |



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Head of Business Services & outsourcing department

✓ Filing of INTRASTAT for May 2024



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



0 BDO

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