

BS&O ALERT



Information

New health insurance premium calculation methods as of January

A package of regulations under the Polish Deal will go into effect at the beginning of the new calendar year, and with it changes in the calculation and payment of health insurance premiums. The Polish Deal makes changes in the calculation, reporting and payment of health insurance premiums. At this time, the rules for determining the health insurance premium calculation base are

the same for all of those who conduct non-agricultural business operations and use start-up relief. As of the New Year the rules will vary and will depend on the form of taxation of those who conduct non-agricultural business operations. The premium calculation base will be determined differently for those taxed on general terms (on the tax scale and with a flat tax), those who pay a lump-sum tax on registe-



red income, those taxed in the form of a tax card and others who conduct non-agricultural business operations.

For a person who conducts non-agricultural business operations or uses start-up relief, who pays income tax on general terms, the basis for the calculation of health insurance premium for a month of coverage will be the income from business operations generated the month before the month for which the premium will be paid. This income will be determined as the difference between the revenue earned and the costs of earning that revenue (as defined in the Personal Income Tax Act). This difference will still need to be reduced by the amount of retirement, disability, sickness and accident insurance premiums paid in that month, if they have not been added to tax-deductible costs. If the monthly health insurance premium calculation base is lower than the minimum wage as of 1 January of a given year, the health insurance premium calculation base will be the amount of minimum wage. Identical premium calculation rules will apply to flat-rate PIT taxable persons.

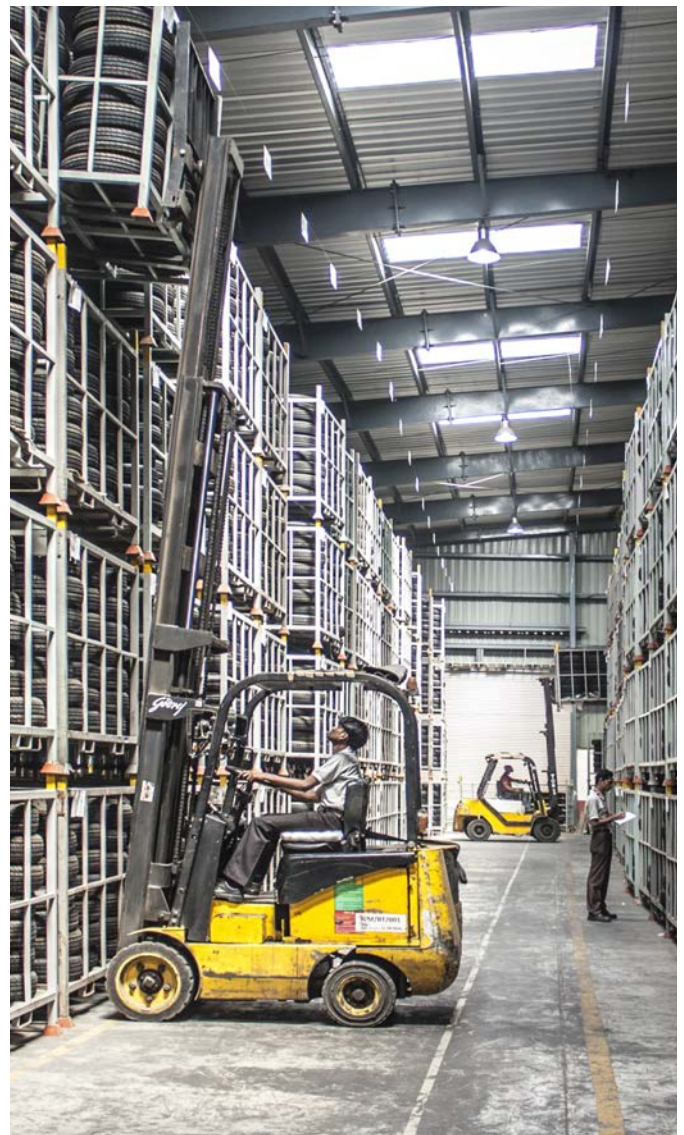
For traders taxed on general terms (on the tax scale and with a flat tax) and those who pay a lump-sum tax on registered income, an annual premium calculation base has also been introduced in addition to the monthly calculation base. It will enable accounting for the premium after the end of the given year. For traders taxed on general terms, the annual calculation base will be determined for a premium year, which will run from 1 February to 31 January of the following year.

If an insured who conducts non-agricultural business operations or uses start-up relief fails to provide information about his monthly revenue or income from non-agricultural operations, the Social Insurance Office will for that month determine the health insurance premium based on minimum wage. Thus

determined premium amount can be changed following an inspection or after data are provided by the Head of National Tax Administration or the relevant tax office.

Where a person who conducts non-agricultural business operations and uses start-up relief is also an employee (as defined in the Social Insurance Act) and his social insurance calculation base under that title is lower than the minimum wage in effect in a given year, he will be exempt from paying health insurance premiums on the business operations if he meets the following conditions:

- ▶ his business operations income is no higher than 50% of the minimum wage, and
- ▶ he pays income tax on business operations in the form of a lump-sum tax on registered income.



New documents and ZUS payment deadlines as of January

Further to the changes in the health insurance premium calculation base for persons who conduct non-agricultural business operations as of January 2022, changes will be made in the ZUS DRA and ZUS RCA declarations. Traders will have to provide additional information, such as the form of taxation in a given month, revenue or income.

In addition, the ZUS RZA report will be eliminated. Starting with the documents filed for January 2022, health insurance premiums of those who are subject to only such insurance will be declared in the ZUS RCA report. This also applies to corrections of ZUS RZA reports for the period 1999-2021.

Most payers will see a change in the declaration filing date and in the health insurance and social insurance premium payment date. Only state and local budget entities will see no change in those deadlines - by the 5th day of the following month.

For other payers, the deadline will depend on whether they have a legal personality or not: the 15th day of the following month will be the deadline for the payment and declara-

tion of a given month's premiums for, among others, limited companies (joint-stock and limited liability companies), cooperatives, associations, foundations, the 20th day of the following month will be the deadline for all other payers, e.g. those who pay only their own premiums, partnerships (general partnerships, limited liability partnerships, limited partnerships, partnerships limited by shares).

The new deadlines apply to social insurance and health insurance premiums and contributions to the labor fund (FP), solidarity fund (FS), guaranteed employee benefits fund (FGŚP) and the bridging pension fund (FEP) declared in documents filed for January 2022 and later months.

Due to changes in the calculation of health insurance premiums, those who conduct business operations and pay their own premiums or their associates, will as of January 2022 have to file declarations with ZUS.

Only the following will be exempt from the filing: clergymen, those who file for their nannies and those who are subject to voluntary retirement and disability insurance.



Changes in the calculation of tax advances withheld by remitters

The Polish Deal will have a considerable effect on the calculation of tax advances. It will be necessary to consider a new tax threshold, tax-free amount, middle class relief. The remitter (employer) will not have to apply middle class relief only when the employee requests to not have his income reduced.

Firstly, the threshold on which a 17% tax advance is paid will be raised from PLN 85 525 to PLN 120 000. This means that the rate of 32% will be applied to income in excess of PLN 120 000.

And here is an important note. The limit of income covered by a PIT exemption for those

26 and younger (Article 21 par. 1 point 148 of the PIT Act) remains unchanged and will continue to amount to PLN 85 528. And thus those 26 and under will pay tax only after exceeding that limit, with the rate of 17% to be applied first. If their income exceeds PLN 120 000 thousand, they will pay income tax at the rate of 32%.

Whereas the limit of income subject to 50% tax deductible costs with respect to copyrights, related rights and disposal of such rights will increase. Currently, such costs (under titles listed in Article 22 par. 9 points 1-3 of the PIT Act) cannot exceed PLN 85 525 in a tax year. In 2022 it will be PLN 120 000.

The tax-free amount will also increase as of January from PLN 8000 to PLN 30 000 per year, which will affect the tax-reducing amount. Those in the second tax threshold will also be eligible for a tax-reducing amount. Until now, those who pay tax at the rate of 32% were not eligible for a tax-free amount. After the changes, it will be PLN 425,00 (resulting from the following calculation: $30\,000 \times 17\% = 5\,100/12 = \text{PLN } 425,00$).

While accounting for employees one cannot forget to consider the "middle class relief", which will need to be taken into account while calculating income tax advances. This relief applies to employees whose income ranges from PLN 5701 to 11 141 per month, or PLN 68 412

to 133 692 per year. This relief will only apply to employees on employment contracts and to those who conduct business operations (traders) taxed on general terms (on the tax scale). The remitter (employer) will not have to apply middle class relief only when the employee requests to not have his income reduced (Article 32 par. 2b of the PIT Act). It needs to be remembered that as of 1 January 2022, when calculating advances the amount of tax can no longer be reduced by a portion of the health insurance premium. This deduction has been eliminated.



In 2022 employees will work for a total of 2008 hours

In 2022 the total number of work hours will be 2008. We will also get 13 public holidays, of which four will fall on Sundays for which there will be no additional time off. December is traditionally a time when we plan our work and holidays for the year ahead. As far as work is concerned, if the company uses a monthly settlement system, in 2022 each employee should work 2008 hours (assuming that Saturday is a day off). The hours worked in each month of 2022 will be: January 152 hours; February 160; March 184; April 160; May 168; June 168; July 168; August 176; September 176; October 168; November 160; December 168 hours.

2022 will also have 13 public holidays, i.e.: 1 January (Saturday) - New Year's Day; 6 January (Thursday) - Epiphany; 17 April (Sunday) - Easter Sunday; 18 April (Monday) - Easter Monday; 1 May (Sunday) - Labor Day; 3 May (Tuesday) - 3 May Constitution Day; 5 June (Sunday) - Pentecost (Whitsun); 16 June (Thursday) - Corpus Christi; 15 August (Monday) - Assumption of Mary and Polish Armed Forces Day; 1 November (Tuesday) - All Saints

Day; 11 November (Friday) - National Independence Day; 25 December (Sunday) - Christmas Day; 26 December (Monday) - Second Day of Christmas.

It should also be remembered that in accordance with Article 130 § 2 of the Labor Code, each holiday that occurs in an accounting period and falls on a day other than a Sunday - reduces the amount of work time by 8 hours. This regulation is the basis for employees to be given an additional day off when a given holiday falls on a Saturday. This rule has been in effect since 8 October 2012 and is the result of a ruling issued by the Constitutional Tribunal on 2 October 2012 (file number K 27/11). In 2022 only one holiday falls on a Saturday (1 January - New Year's Day). Employers are therefore required to give an additional day off to their employees. Such a day off should be given before the end of the reporting period.

As a reminder, in 2022 the minimum wage will amount to PLN 3010, whilst the minimum hourly rate for civil law agreements to PLN 19,70.



In short:

↓ Change in sender of text messages from ZUS electronic profile

As of 1 December, those clients of the ZUS electronic services platform (PUE) who have signed up for account notifications, receive text messages from a "ZUS" address. Until now the sender was shown as number 2075. Each ZUS client can sign up for PUE ZUS notifications of new events on their account by logging in to PUE ZUS and selecting "Subscription settings" in the "Settings. Profile configuration" tab. Notifications will be sent by text on the phone or by e-mail - depending on the option chosen by the user.

↓ As of 1 January remuneration for supervisory and management boards with health insurance premiums

As of 1 January 2022, entities that pay remuneration to a person holding a post based on an appointment will have to submit that person to health insurance and declare and pay health insurance premiums. The requirement to pay the premiums will arise with the date of appointment and expire with the date of dismissal. The amount of the premium will be based

on remuneration. It will be financed by the insured person and remitted by the payer of remuneration.

↓ Health insurance premium paid in January for December not tax-deductible

Health insurance premium paid in January 2022 for December 2021 will not be deductible in accordance with the rules in effect until 31 December 2021 - writes the Ministry of Finance in response to questions from PAP. The regulations that implement the tax provisions of the Polish Deal as of 1 January 2022 exclude the ability to deduct from income tax the value of health insurance premiums paid in the tax year. As a result, in order to deduct the premium for December, it must be paid in December 2021, and not as indicated by the regulations in January 2022.

↓ Only the newest versions of PIT 11 and PIT 40A/11A forms as of December

The following may be filed electronically as of 1 December 2021: PIT-11 for 2021 - on version 27, PIT-40A/11A for 2021 - only version 20. This is to prevent the submission of these electronic PIT forms for 2021 using earlier and no longer valid forms, which do not reflect current changes. Version numbers may be found in the lower right corner of each form.

Remote work and sobriety checks to be regulated in the Labor Code

The Ministry of Family and Social Policy has a ready draft of changes to the Labor Code to permanently regulate remote work and employee sobriety and drug tests when necessary to protect certain goods. Remote work is to be, for example, possible at the employee's request also in the absence of an agreement. The draft has already been added to the Council of Minister's legislative agenda.

↓ Retirement saving to be possible not just in Poland, but also in other EU states

In addition to IKE and IKZE, Poles will be able to contribute money to pan-European personal pension products. The new regulations will take effect on 23 March 2022. They are the result of an EU regulation of two years ago on a pan-European Personal Pension Product (PEPP). The new regulations will allow Poles 15 and older to save for retirement not only in Poland, but also in other EU member states. Funds are to be contributed on terms similar to those that apply to Individual Pension Accounts (IKE).

↓ Using a fake vaccination certificate can result in job loss

Falsifying and using a falsified document, i.e. a crime from Article 270 from the Crimi-

nal Code, carries a penalty of 5 years of imprisonment. This penalty may also be imposed on any employee who in order to avoid being vaccinated against COVID-19 has purchased a vaccination certificate. In the opinion of experts, an employee who uses a counterfeit COVID-19 vaccination certificate exposes his employer to a higher risk of spreading the virus and in consequence - violates his employment contract. Another valid reason for terminating employment in accordance with Article 52 par. 1 point 1 of the Labor Code may also be culpability that would be present in this case, which creates a threat to the interests of the employer.

↓ **European Parliament calls for facilitating legal economic migration to EU states**
The European Parliament wants new EU regulations in support of legal economic migration. According to the MEPs, the European Com-

mission should by the end of January 2022 present conclusions on facilitating legal economic migration to the EU to deal with an aging population and shortages of skilled workers. The Parliament is calling for the formation of an ambitious system of accepting low-skilled and middle-skill workers from third countries and a framework for recognizing their skills and qualifications.

↓ **ZUS to get new ways of verifying eligibility for benefits**

As of 1 January, the Social Insurance Office will be authorized to collect information necessary to determine eligibility for benefits, their amount, calculation basis and payment. ZUS also has the right to summon and depose witnesses. Thus it has obtained tools to check on the insureds. ZUS may demand that a person return a collected undue benefit, for a period of no more than 3 years from

the date on which the circumstances of collecting the benefit were discovered. The decision on unduly collected benefit can, however, be issued no later than 5 years from the last day of the period for which the benefit was unduly collected.

↓ **In mid-January ZUS will provide a health insurance premium calculator**
In the second half of January 2022 ZUS will set up a special calculator to make it easier to calculate the health insurance calculation base and the premium itself. The calculator will be available in the second half of January, because it is around the 20th of January that the Main Statistical Office (GUS) announces the average monthly wage in the business sector in the fourth quarter of the previous year, along with profit distributions. This indicator is essential for the calculator's proper operation.



Interpretations and rulings

You cannot reduce full-time employment only to avoid paying minimum wage

➔ The financial position of the employer can in no case be the reason for evading the application of absolutely binding labor laws relating to work times or remuneration. Financial issues cannot release the employer from the obligation to provide employees with remuneration at at least the minimum level – indicates a ruling issued by the Circuit Court in Sieradz on 6 September 2021 (case file IV Pa 23/21). In the case considered by the court, the employer, as a result of an increase in minimum wage, did not have enough funds for the payment of wages. He therefore decided to reduce work times without changing the scope of employee responsibilities.

Former member of management board must pay PFRON out of his own pocket

➔ The company failed to pay its liabilities. The reasons for this failure and the number of creditors are of no importance in determining the state of insolvency that should lead to declaring the company bankrupt. If a board member failed to do this at the appropriate time, he will pay the arrears out of his own pocket – the Supreme Administrative

Court (NSA) ruled on 7 September 2021 (case file III FSK 4106/21). The court stressed that just the fact that the company failed to make payments to PFRON was sufficient grounds to conclude that the company did not pay its liabilities. The then member of its board failed to file for bankruptcy in a timely manner. He only did so two years later. Such a considerable delay could not be regarded as a temporary difficulty in the payment of liabilities.

Sick leave shortly after hiring does not prove that employment contract is ostensible

➔ An employment contract cannot be construed to be ostensible from the mere fact that relatively soon after its conclusion the employee starts taking sick leave. Even if the parties are aware of the future occurrence of an event that will entitle to social security benefits, there are no grounds for concluding that the contract was intended to circumvent the law – indicates a ruling issued by the Circuit Court in Sieradz on 22 September 2022 (case file IV U 72/21). As stressed in the grounds for the ruling, the contract's ostensible nature should be demonstrated by the authority with appropriate evidence and cannot be based solely on presumptions.



CALENDAR (most important deadlines)

- ✓ Payment for November 2021 of monthly PIT and CIT advances
- ✓ Payment for November 2021 of advances collected on employment income
- ✓ Payment by a holding company representing a tax group of the tax advance collected for November 2021
- ✓ Payment of lump-sum CIT-5
- ✓ Payment of tax advance for October 2021 by real estate company/real estate company tax representative on income from sale of real estate company rights (PIT-ISN and CIT-ISN)
- ✓ Payment for November 2021 to PFRON



- ✓ Payment of VAT for November 2021
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for November 2021
- ✓ Filing of JPK_V7M for November 2021
- ✓ Filing of JPK_V7K for November 2021 (record section)
- ✓ Filing of VAT-13 by tax representative for November 2021
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for November 2021
- ✓ Reporting of sugar tax due for November 2021
- ✓ Reporting of retail sales tax for November 2021



CALENDAR



- ✓ Submission to PFRON by disabled persons who conduct business operations of application for a refund of retirement and disability premiums paid for November 2021
- ✓ Submission (electronically) to the Head of National Tax Administration of transfer pricing information TPR-C, for which the filing deadline passed in September 2021
- ✓ Submission (electronically) to the tax office of declaration on the preparation of transfer pricing information TPR-P, for which the filing deadline passed in September 2021
- ✓ Payment of tax due from declaration on amount of income from unrealized profits (PIT-NZ and PT-NZS) for the period from January 2019 to November 2021
- ✓ Submission (electronically) to the tax office of declaration on the preparation of local transfer pricing documentation, for which the filing deadline passed in September 2021
- ✓ Filing of CIT-15J and CIT/JW by general partnerships.
- ✓ Publication on website of information about tax strategy realized in 2020 and submission in electronic form of the address of this website to the relevant tax office.
- ✓ Physical count end of 2021/beginning of 2022.



- ✓ Payment of lump-sum income tax collected in December 2021 on amounts paid to foreign legal entities
- ✓ Payment of lump-sum income tax collected in December 2021 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 December 2021
- ✓ Filing of declaration on amount of income from unrealized profits PIT-NZ and PIT-NZS for December 2021 and payment of tax arising out of that declaration
- ✓ Filing of declaration on the amount of income from unrealized profits CIT-NZ for December 2021 and payment of tax due as indicated in that declaration
- ✓ Payment of ZUS premiums for December 2021 – individuals who pay only their own premiums (please note that premiums paid this way are no longer deductible)
- ✓ Filing of INTRASTAT for December 2021
- ✓ Filing of PIT-2 and PIT-3 on a reduction in advances by tax-reducing amount



- ✓ Final deadline for the valuation of assets covered by physical count



CALENDAR



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O BDO

BDO is the world's largest audit firm focused on the medium enterprises market. dealing professionally with your financial matters, we leave you enough space to grow your business. Due to our international cooperation within the BDO network, we develop our knowledge and coordinate international projects. We put long-term relations first, and base them on mutual trust and respect.

Apart from HR and payroll services, we also support companies in other challenging areas, as e.g.

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- tax services (tax compliance),
- day-to-day advisory services and hotline consultations in HR and payroll, accounting and tax areas,
- labor law advisory services,
- tax, legal and financial advisory services,
- management advisory services and accounting,
- audit,
- reporting and IT solutions.

The team of Bdo responds to the needs of companies, adjusting complex solutions both to the economic reality and to the specific features of their activities, at the same time putting quality and professionalism first. If there are in your Company issues that require support or advice in the above areas, we are the right partner for you and you are encouraged to contact us.

We will be happy to meet your needs and offer support.