

# BS&O ALERT



## INFORMATION

### Remote work and sobriety checks will be added to the Labor Code

**A**t the end of May the Council of Ministers adopted a bill submitted by the minister of family and social policy, amending the Labor Code and certain other acts. The government wants to permanently add remote work to the Labor Code. Employee sobriety checks will also be possible.

The government has adopted a draft of changes to the Labor Code relating to remote work and sobriety checks, which we have already discussed in previous issues of our alert. It has now been sent to the Sejm.

A definition of remote work will be added to the Labor Code, under which it will be work performed in whole or in part at a place indicated by the employee and agreed with the employer, including at the employee's residence address, in particular with the use of direct remote communication.

Employers will have to grant remote work requests made by pregnant employees and employees with children under the age of 4 (unless not possible due to the organization or nature of the work performed by the employee, e.g. unifor-



med services). This solution will also apply to: an employee who takes care of another close family member or another person living with him, who has a certificate of disability or significant disability; employee – parent of a child who has a certificate of severe and irreversible handicap or an incurable life-threatening disease that arose in the prenatal stage of the child's development or during childbirth; employee – parent of a child who has a certificate of moderate or significant disability; employee – parent of a child who has been issued an opinion of special educational needs. Under the new regulations, employers will also be able to test their employees for the

presence of alcohol or other similarly acting substances. Such testing will be possible when necessary to protect the lives and health of employees or others, or to protect assets. Where an employee is found to be under the influence of alcohol or another similar substance, the employer will be required to prevent the employee from performing work. The same will apply if there is a reasonable suspicion that the employee has come to work under the influence of alcohol or a similar substance, or consumed alcohol or such substances at work. The police will also be able to test employees for alcohol or similarly acting substances.



## 2023 with another hike in ZUS premiums for traders

In its budget assumptions the Ministry of Finance has forecast that in 2023 the average monthly wage will increase to PLN 6839.

This makes it possible to predict that the ZUS premiums paid by traders will next year go up to PLN 1398,85.

The amount of ZUS premiums depends on the average monthly wage in the national economy in the fourth quarter of the previous year, the amount of which will be published in a decree of the minister of family and social policy in the fall. It is, however, always taken into account in the assumptions to the state's budget. The government has assumed that it will amount to PLN 6839.

Premiums are calculated on 60% of that amount, which would therefore be PLN 4103,40. The percentage rates for the various (full) premiums paid by traders are: retirement 19,52% of the calculation base; disability 8% of the base; sickness (voluntary) 2,45%; accident 1,67%; Labor Fund 2,45% of the premium calculation base.

In consequence, next year's ZUS premiums will increase to PLN 1398,85 per month from the current PLN 1211,28 per month (after having gone up from PLN 1075,68 in 2021). Traders can therefore expect a ZUS premium increase by another PLN 187,57 per month (in 2022 they increased by PLN 135,60 from 2021). As a result, in all of 2023 ZUS premiums will cost PLN 2250,84 more than now, as they will total PLN 16 768.

It should be noted that traders pay these premiums irrespective of the amount of income earned (as of 1 January 2021 the health insurance premium is also income-based), and so even if they have no income at all or incur a loss.

According to the assumptions adopted by the Ministry of Finance, in 2023 the different premiums would amount to: retirement 19,52% of the calculation base, i.e. PLN 800,98; disability 8%, or PLN 328,27; sickness (voluntary) 2,45% or PLN 100,53; accident 1,67% or PLN 68,53; and Labor Fund 2,45% of the calculation base, i.e. PLN 100,53.



## Approaching deadline to file applications relating to voluntary insurance

**30** June 2022 is the final deadline for the filing of applications for permission to pay premiums for voluntary sickness, retirement and disability insurance after the payment due date.

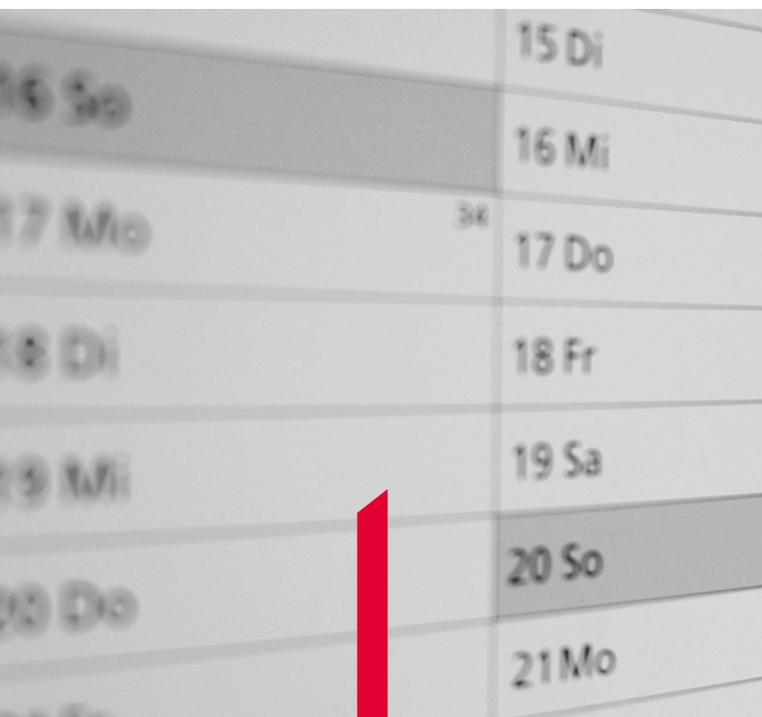
Those who paid their voluntary insurance premiums after the due date for a period prior to December 2021 and want to maintain continuity of their insurance coverage, should apply to ZUS for permission to pay the premiums after the due date. Such applications should be filed on form US-9 no later than by the end of June 2022.

As of December 2021 it is no longer possible to get covered by voluntary insurance (sickness, retirement and disability) based on an implicit request, i.e. on the basis of timely paid premiums. At the same time – starting with the premiums due for December 2021, their late payment no longer leads to termination of voluntary insurance, if this voluntary insurance did not terminate back in November 2021. If it did terminate in 2021, then a new application must be submitted to ZUS in order to get covered again. Coverage will then restart as of the application date.

Under binding regulations, voluntary retirement and disability insurance is available to

those who do not already have mandatory coverage. If the period of voluntary insurance exceeds 10 years, the insured will not be subject to the minimum benefit payment guarantee. He will receive a benefit arising out of the balance of funds in his ZUS account. Voluntary retirement and disability insurance premiums are calculated based on a declared amount that cannot be lower than the minimum monthly wage (in 2022 – PLN 3010). Voluntary sickness insurance coverage is only provided based on an application submitted using ZUS ZUA. Coverage cannot be provided based on a so-called implicit request – when premiums for a given month are paid and accounted for by the statutory deadline. For voluntary health insurance it should be noted that according to an announcement made by the President of the Main Statistical Office on 21 April 2022, the average monthly wage in the business sector, including distributions of profits, amounted to PLN 6338,46 in the first quarter of 2022. As a result, the premium for voluntary health insurance for the months of April, May and June 2022 amounts to no less than PLN 570,46 per month. NFZ conditions voluntary health insurance coverage on the payment of an additional fee if the interruption in health insurance coverage and payment of premiums amounts to an uninterrupted period of:

- 3 months to a year – the fee amounts to no less than PLN 1 267,69 (20% of the calculation base) and must be paid in full;
- 1 to 2 years – the fee amounts to no less than PLN 3 169,23 (50% of the calculation base) and may be paid in 3 installments;
- 2 to 5 years – the fee amounts to no less than PLN 6 338,46 (100% of the calculation base) and may be paid in 6 installments;
- 5 to 10 years – the fee amounts to no less than PLN 9 507,69 (150% of the calculation base) and may be paid in 9 installments;
- more than 10 years – the fee amounts to no less than PLN 12 676,92 (200% of the calculation base) and may be paid in 12 installments.



## Two large minimum wage increases next year

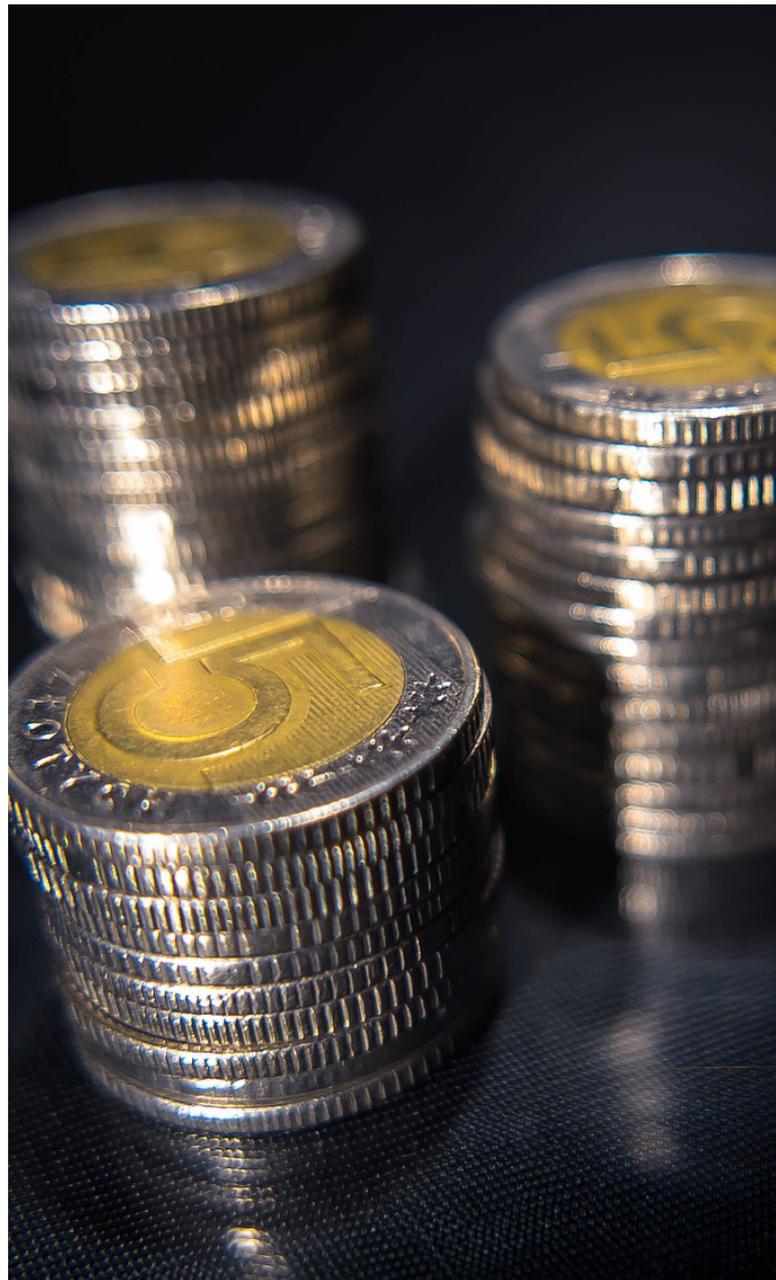
The government has proposed raising the minimum wage twice in 2023, first in January from PLN 3010 to PLN 3350, and then again on 1 July from PLN 3350 to PLN 3500. This is the result of regulations that require the government to raise minimum wage twice in one year when inflation exceeds 5%. In accordance with binding minimum wage regulations, if the price index forecast for the coming year amounts to at least 105 percent (i.e. when inflation is higher than 5%), two dates are set for increasing the amount of minimum monthly wage and minimum hourly wage: 1 January and 1 July. That is what we can expect in 2023.

It is the sharp rise in inflation recorded in recent months that will lead to not one, but two minimum wage increases. The government expects that next year inflation it will amount to 7,8% (it had amounted to 12,4% in April).

To recap, in accordance with the Minimum Wage Act, the average minimum wage must in a given year increase by no less than the price index forecast for that year. At a meeting of the Social Dialog Council, Marlena Małag, the minister of family and social policy, announced that the government is considering raising the minimum wage to PLN 3350 as of January 2023 (by PLN 340 from 2022), and to PLN 3500 as of July (by PLN 490 from 2022).

The Council of Ministers has until 15 June of each year to present to the Social Dialog Council the proposed amounts of the minimum monthly wage and minimum hourly wage for the coming year. Within 30 days (i.e. by 15 July) from receipt of the proposals and information the Social Dialog Council will agree the amount of the minimum monthly wage and minimum hourly wage.

This unavoidable increase in minimum wage will of course lead to a significant rise in employer costs. With the current minimum monthly wage of PLN 3010 the cost to the employer is PLN 3626,46 (by PLN 616,46 then the employee's gross wage). For wages of PLN 3350, this cost will increase to PLN 4036,09 (PLN 686,09 above the employee's gross wage), and as of July it will amount to PLN 4216,80 (and will be by PLN 716,80 higher than the employee's gross wage). In total, employer costs will increase to PLN 8417,34 per year per a minimum wage employee (up by PLN 1017,66).

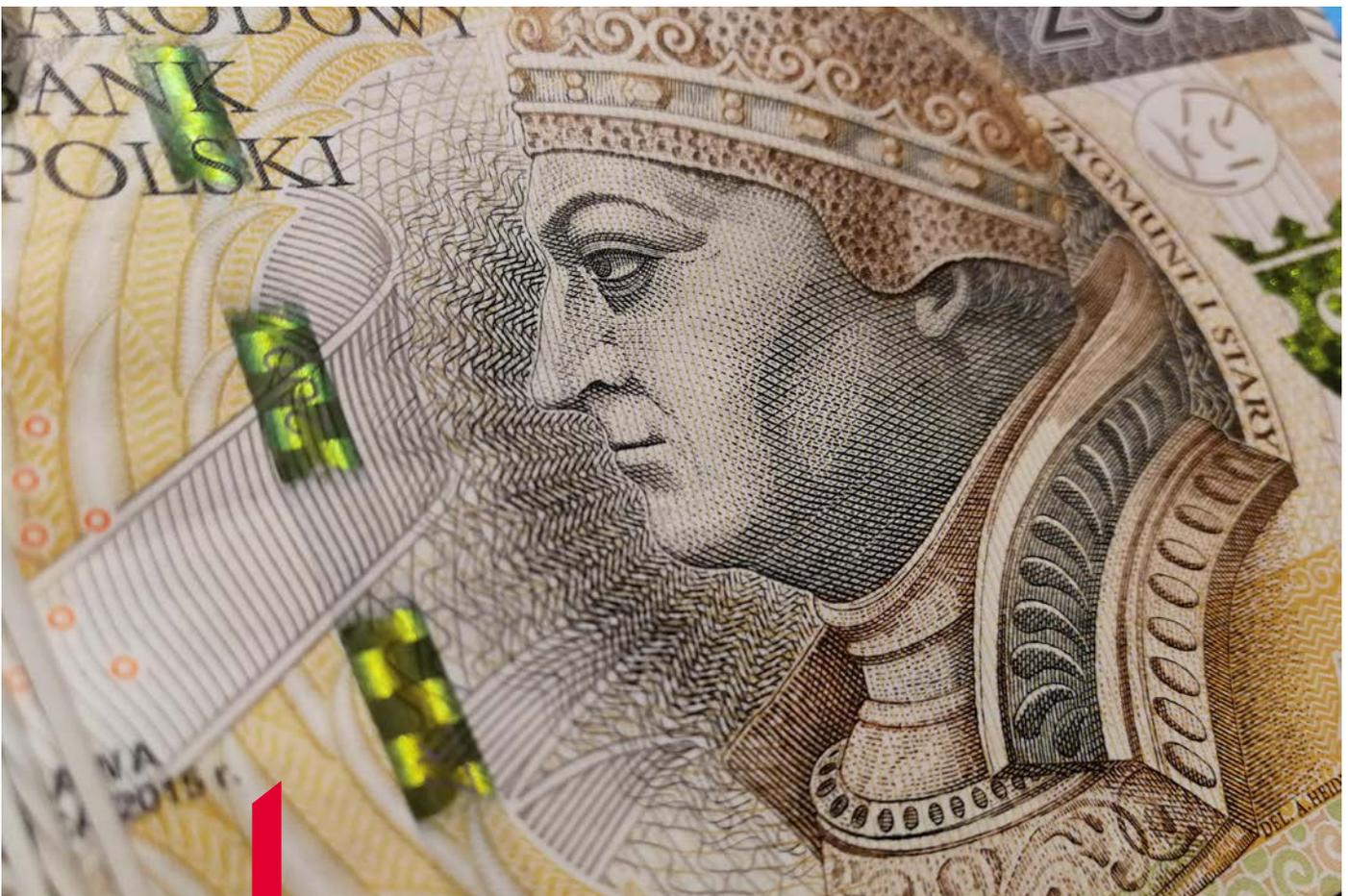


## Changes in Polish Deal regulations passed by the Sejm

The Sejm has passed the amendments to the PIT Act which, among others, reduce the first PIT rate from 17 to 12 percent and introduce numerous changes in tax remitter obligations. At the same time, they introduce a partial deduction of health insurance premium from the tax base for some traders. The Act provides that as of 1 July 2022 the PIT rate will fall from 17 to 12 percent. The tax-free amount will remain at PLN 30 thousand, whilst the tax threshold at PLN 120 thousand. A change will be made in the standard deduction when calculating premiums (in addition, it will be deductible in equal parts at up to three employers). Middle class relief will be eliminated. We described these changes, as well as the changes in tax remitter obligations, in an earlier alert. In addition to the partial (limited) deduction of health insurance premiums by traders

taxed with flat-rate and lump-sum tax (not available to taxable persons taxed on the tax scale), the amendments afford the possibility to once again choose to be taxed on the tax scale to those traders who have chosen flat-rate or lump-sum tax (whereas taxation on the tax scale cannot be changed to another form of taxation).

Traders who choose to be taxed on the tax scale will provide this information in the return in which they declare their 2022 income from business operations taxed on the tax scale. Whereas those traders who pay lump-sum tax on registered income will be able to choose to be taxed on the scale also in the course of 2022, with effect for the second half of 2022. In such cases, a relevant declaration will have to be filed by the trader by 22 August 2022.



## Important interpretations and rulings:

### **2022 ZUS premiums paid in 2021 may be deducted under PIT**

➔ ZUS is required to distribute the payments made by premium remitters proportionately to each fund. Each payment is therefore divided and in consequence the health insurance premium may be paid only partially. What matters is not the period for which the health insurance premium is paid, but the payment date. It is therefore possible to deduct the health insurance premiums paid for the months of 2022 from the tax for 2021 at the amount of 7,75% of the health insurance premium calculation base – found a National Tax Administration Director in an interpretation issued on 12 May 2022 (number 0112-KDIL2-2.4011.147.2022.3.WS).

### **Business trip reimbursement for board member subject to ZUS premiums**

➔ Remuneration paid as reimbursement of business travel costs to board members who perform their duties based on an appointment increases the remuneration that forms the health insurance premium calculation base – indicates an interpretation issued by ZUS on 21 April 2022 (number DI/100000/43/118/2022). As stressed in the interpretation, the term “remuneration” used in health insurance regulations has a broad definition, i.e. as any form of income provided for in tax regulations. In the case of a board member who receives remuneration based on an appointment, both the remuneration and the reimbursement of travel costs constitute income from contractual employment.

### **Bonus granted by employer subject to ZUS**

➔ Where the right to a jubilee bonus arises out of an individual decision made by the

employer (e.g. with respect to a group of employees), rather than out of the relevant internal regulations (Remuneration Regulations), or when such bonuses are paid out more frequently than every five years, the amount of the bonus constitutes a social insurance premium calculation base – indicates an interpretation issued by ZUS on 7 April 2022 (number DI/100000/43/120/2022). The interpretation also stressed that it is important that the right to the bonus is acquired no more frequently than once every five years. Whereas of no importance is the date of payment of such benefits, which may also be made at shorter intervals.

### **Remuneration paid out in 2022 for 2021 without health insurance premium**

➔ Remuneration due for periods prior to 31 December 2021 and paid in 2022 to a person appointed to a position on the management board of a company does not constitute health insurance premium calculation base – indicates an interpretation issued by ZUS on 7 April 2022 (number DI/100000/43/381/2022). As explained by ZUS, remuneration paid in 2022 to those appointed prior to 1 January 2022 for periods prior to that date does not constitute health insurance premium calculation base, as it is due for a period during which they had no title to health insurance.

### **Staging a show is a specified task contract rather than a contract for services**

➔ A contract in which a party undertakes a specific artistic production for a fee has the hallmarks of a specified-task contract rather than a contract for services. This is because the contractor’s obligation is not just to take on and perform specific activities, but rather to achieve the result agreed in the contract, i.e. to stage a show that meets certain agreed conditions – the Supreme Administrative Court found in a ruling issued on 7 April 2022 (case file II GSK 278/22).

### No PIT on gift cards for employees from Company Social Benefits Fund

➔ When employees receive gift cards financed from the Company Social Benefits Fund, they receive income referred to in Article 12 par. 1 of the Personal Income Tax Act. This income will be exempt from personal income tax up to the amount of the limit applicable in the tax year, as per Article 21 par. 1 point 67 and Article 52l point 3 of the Personal Income Tax Act – a National Tax Information Director explained in an individual interpretation issued on 1 April 2022 (number 0115-KDIT2.4011.96.2022.1.RS).

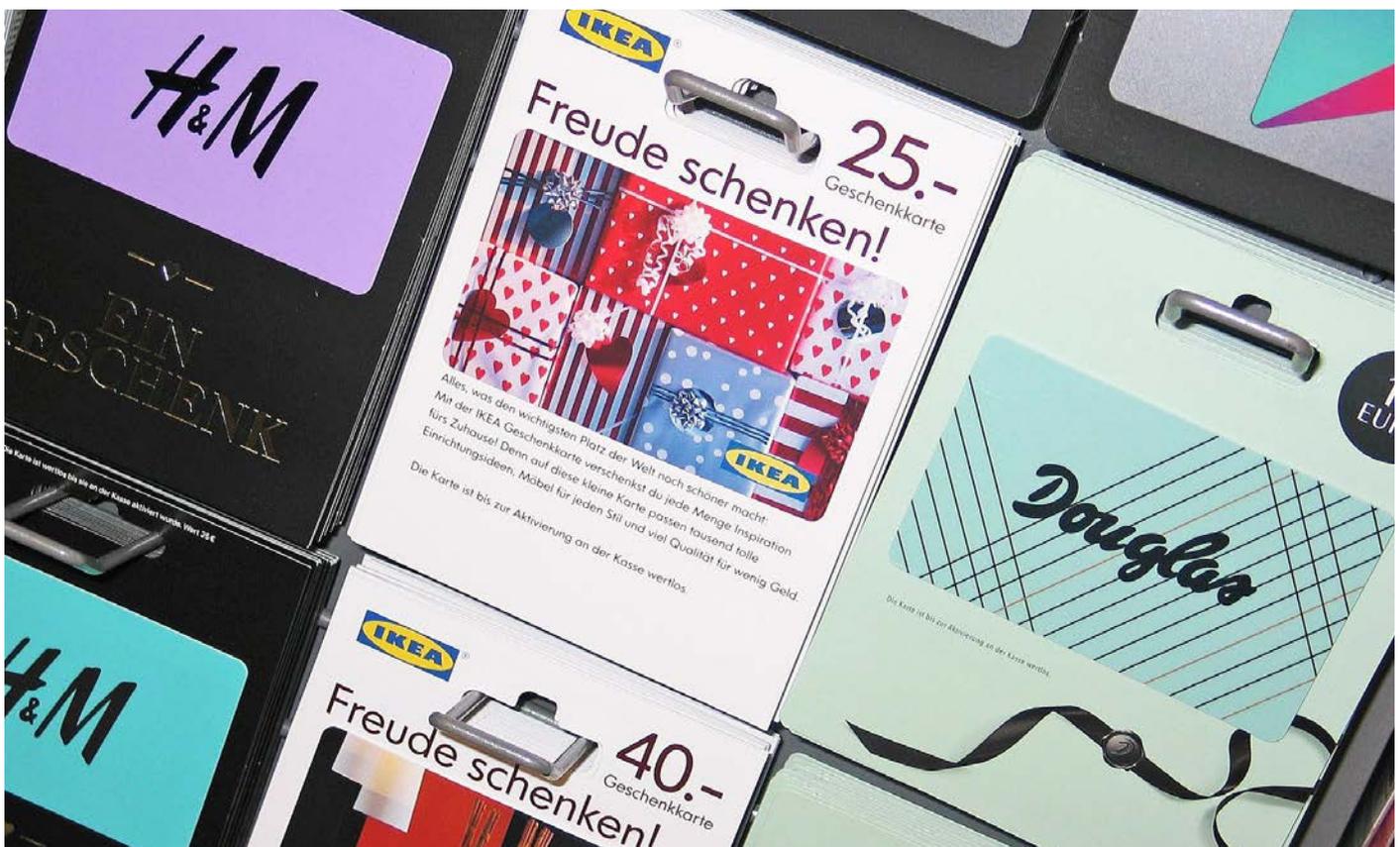
### Deadline set in the regulations cannot prevent the exercise of rights

➔ A local tax authority cannot cite the expiration of a deadline (even if it is reasonable and equivalent) when the conduct of the local authorities in combination with the existence of the institution of preclusion have prevented a taxable person from asserting his rights, the existence of which in the given

period was confirmed by the CJEU. The introduction of a final deadline cannot practically prevent or excessively hinder the exercise of the taxable person's rights (the principle of effectiveness) – otherwise the deadline must be disregarded – states a ruling issued by the Voivodship Administrative Court in Białystok on 18 March 2022 (case file I SA/Bk 32/22).

### Expenses for the integration of contractors are not representation costs

➔ In a ruling issued on 29 March 2022 (case file I SA/Rz 94/22), the Voivodship Administrative Court in Rzeszów found that the tax authority incorrectly classified as representation costs the portion of the expenses incurred for integration that pertained to contractors. Such expenses may be assessed as indirect costs, i.e. pertaining to the entity's operations as a whole, without being attributed to a specific source of income. However, in this respect, when expressing an opinion on whether they may be included in such categories, the authority will be required to classify them in those terms.



## CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for May 2022 - other premium remitters
- ✓ Payment for May 2022 of monthly PIT and CIT advances
- ✓ Payment for May 2022 of advances collected on employment income
- ✓ Payment for May 2022 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 May 2022
- ✓ Payment of lump-sum tax if in May 2022 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 May 2022 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for May 2022 to PFRON



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- ✓ Payment of VAT for May 2022
  - ✓ Filing of VAT-8, VAT-9M, VAT-12 for May 2022
  - ✓ Transmission of SAF\_V7M for May 2022
  - ✓ Transmission of SAF\_V7K for May 2022 (record section)
  - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for May 2022
  - ✓ Filing of VAT-13 for May 2022
  - ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for May 2022
  - ✓ Reporting of sugar tax for May 2022
  - ✓ Reporting of retail sales tax PSD-1 for May 2022



## CALENDAR



- ✓ Preparation of year-end financial statements for 2021 by entities whose financial year is concurrent with the calendar year
- ✓ Filing to tax office of: CIT-8 (with attachments) and CIT-8AB (with attachments), if the taxable person's tax year ended in the period from 1 December 2021 to 28 February 2022, and payment of the resulting tax,
- ✓ Filing to tax office of CIT-8E for a tax year ended in the period from 1 December 2021 to 28 February 2022,
- ✓ Disclosure in CIT/KW (constituting an attachment to CIT-8) of revenue, costs and income from a transformation and payment of the resulting tax, if the taxable person's first year of taxation with flat-rate tax on corporate income began in the period from 1 January 2022 to 1 March 2022
- ✓ Submission to PFRON by disabled persons who conduct business operations of application for a refund of pension and disability premiums paid for May 2022



- ✓ Payment of lump-sum income tax collected in May 2022 on dividend income and other income from shares in the profits of legal entities, and provision of information CIT-7 to taxable persons
- ✓ Payment by acquirer of lump-sum income tax for June 2022
- ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for June 2022
- ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for June 2022 and payment of output tax indicated in the declaration



- ✓ Filing of INTRASTAT for June 2022



- ✓ Payment of ZUS premiums for June 2022 - remitters with legal personality
- ✓ Payment to PPK



## CALENDAR

JULY 2022						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19		21
22	23	24	25	26	27	28
29	30	31				



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 Head of Business  
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 Department

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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.

- ▶ day-to-day bookkeeping,

- ▶ 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.*