



Information

Health contributions that have been refunded require tax adjustments

The refund of the overpaid health insurance contribution for 2022 arising from its annual settlement results in the obligation to adjust tax expenses, tax base or income, depending on the applied form of taxation, as well as the related adjustment of the annual tax return. In the reply of the Ministry of Finance of 1 June 2023 to journalists' questions (published on the eureka website of the Ministry), the Ministry explained the consequences of the refund of overpaid health contributions as a result of the annual settlement of these contributions. According to the explanations, the health insurance contribution paid by the entrepreneur who settles the income tax on account of the conducted business activity according to the linear 19% rate, up to the statutory limit, may be recognised in tax expenses or deducted from the tax base. Therefore, the refund of the overpaid health insurance contribution for 2022 (arising from its annual settlement) results in the obligation to adjust tax expenses if the contribution was charged to tax expenses. Adjustments are made on a current basis if the adjustment of expenses was not caused by an accounting error or any other obvious mistake, in other cases - retrospectively by correcting the PIT-36L tax return for 2022. Correction of the PIT-36L tax return for 2022 is also necessary if the contribution is refunded after the liquidation of a non-agricultural business activity or change of the form of taxation to lump-sum taxation provided for in the Act on Lump-Sum Income Tax or Act on Tonnage Tax. The adjustment is made in the part in which the amount of health insurance contributions recognised in tax expenses is included in this overpayment. If the taxpayer did not recognise the contributions as expenses but deducted them from the

tax base, the taxpayer is obliged to add the amounts refunded in the annual tax return for 2023 to the income. The addition is made in the part in which the amount of health insurance contributions deducted from the tax base is included in this overpayment. The Ministry also explained that the health insurance contribution paid by the entrepreneur who settles the income tax on account of the conducted business activity applying lump-sum tax on registered income, up to 50% of this contribution may be deducted from the income. According to the Ministry of Finance, this means that the refund of the overpaid health insurance contribution for 2022 (resulting from its annual settlement) results in the obligation to add the amounts refunded in the annual tax return for 2023 to the revenue. The addition is made in the part in which the amount of health insurance contributions deducted from income is included in this overpayment.



Mandatory provision of water to employees without tax consequences

The employer must provide employees with cold drinks if temperature exceeds 25°C outdoors or 28°C indoors. The employer is obliged to provide drinks free of charge. With such provision of water, the employer does not charge VAT and does not collect PIT advances from employees.

In connection with summer and the heat in this period, it should be reminded that, in accordance with the applicable regulations, the employer is obliged to provide employees working in particularly arduous conditions with drinks free of charge, the type and temperature of which should be adapted to the working conditions.

According to these regulations, the employer is obliged to provide refreshments to employees working: in hot microclimates, characterised with a thermal load index (WBGT) exceeding 25°C; in cold microclimate conditions, characterised with an air cooling index (WCI) exceeding 1000; when working in open space at

an ambient temperature below 10°C or above 25°C; for work related to physical effort, causing effective energy expenditure of the body of over 1500 kcal (6280 kJ) in men and 1000 kcal (4187 kJ) in women during a work shift; at workplaces where the temperature caused by weather conditions exceeds 28°C.

If the employer does not provide its employees with drinks on hot days, it commits an offence against the rights of the employee. The employee can notify the labour inspectorate of this fact, which may impose a fine on the employer.

It must be noted that in accordance with PIT regulations, benefits in kind and equivalents for these benefits to which employees are entitled under the regulations on occupational health and safety, if the rules for their granting result from separate acts or secondary legislation issued thereunder, are exempt from income tax. This means that the value of water that the employer provides to its employees is not an income for them and the employer, as the payer, does not collect PIT advances on this value. The value of the water provided is also not subject to contributions (ZUS and health contributions). The Regulation of the Minister of Labour and Social Policy of 18 December 1998 on detailed rules for determining the base for assessing contributions for old-age and disability pension insurance stipulates that the value of in kind benefits resulting from the regulations on occupational health and safety is excluded from the base for assessing contributions for social insurances (and health insurance).

At the same time, the expenses incurred by the employer for the purchase of water for employees are a tax deductible expense for it. When the employer provides employees with water or other beverages, it also does not have to charge VAT on such a provision, because these activities are not taxable. At the same time, the purchase of water entitles the employer to deduct VAT if it is used during performance of work.



The potential increase in ZUS contributions for entrepreneurs in 2024 can already be estimated

In the draft budget, the government assumed an increase in the average salary forming the basis for calculating ZUS contributions to PLN 7,783.07. This means that entrepreneurs will pay PLN 1,591.95 per month to ZUS next year, instead of PLN 1,418.48 they currently pay.

The amount of ZUS contributions depends on the average monthly salary in the fourth quarter of the prior year in the national economy, the amount of which will be published in the regulation of the minister of family and social policy in autumn. However, this indicator is also adopted each time in the assumptions for the state budget. According to the draft budget for 2024 already adopted by the government, the projected average monthly gross salary in the national economy will amount to PLN 7,783.07 (previously PLN 6,935). Thus, starting January 2024, entrepreneurs must expect much higher ZUS contributions than they currently pay.

60% of this amount is taken as the basis for the calculation of contributions. The basis for calculating ZUS contributions next year would, therefore be, the amount of PLN 4,669.84 (currently PLN 4,161). The interest rate for individual (full) contributions for entrepreneurs is: old-age pension contribution 19.52% of the base; disability pension contribution 8% of the base; sickness contribution (voluntary) 2.45% of the base; accident insurance 1.67% of the base; contribution to the Labor Fund 2.45% of the base.

With the projected average monthly gross salary of PLN 7,783.07, the sum of contributions that will have to be paid to the ZUS account next year will, therefore, amount to PLN 1,591.95 (in 2023 it is PLN 1,418.48) and will be higher than this year by PLN 173.47 per month (in 2023 contributions increased by PLN 207.20 per month). Thus, the additional cost of ZUS resulting from the increase will amount to slightly more than PLN 2 thousand next year and over PLN 19 thousand will have to be paid to the ZUS account throughout the year instead of the current PLN 17 thousand.

Individual contributions (with the average salary assumed in the budget) would amount to: old-age pension contribution (19.52% of the base) monthly PLN 911.55, disability pension contribution (8% of the base) monthly PLN 373.59, sickness contribution (voluntary; 2.45% of the base) PLN 114.41 a month, accident insurance (1.67% of the base) PLN 77.99 a month, Labor Fund contribution (2.45% of the base) PLN 114.41 a month.

Let us remind you that these contributions are paid by entrepreneurs regardless of the amount of income they earn (from 1 January 2022, only the amount of the health contribution paid depends on income, with the exception of the minimum contribution which is related to the minimum wage) and, therefore, also when they do not receive any income or suffer a loss.



In short:

A new template of the VAT-14 return form is already in force

↓ On 1 July, a new regulation on the template of the return of the amounts of value added tax came into force in the case of intra-Community acquisition of goods, referred to in Article 103(5a) of the Act on Value Added Tax (VAT-14), of which the VAT-14/A attachment is an integral part (see Journal of Laws, item 1009). The new VAT-14 template includes in section b of the VAT-14/A Attachment, after column f ("Transaction date"), the column g with a new wording - "Date of invoice issue (day-month-year)". Similar modifications have also been made to the explanatory notes to the attachment. The

Ministry of Finance has also provided for several other changes of a purely technical nature.

The VAT rate resulting from the issued WIS (Binding Rate Information) will be obligatory for taxpayers

↓ The SLIM VAT 3 package provides for the extension of the binding power of WIS, i.e. Binding Rate Information. These regulations prevent the taxpayer from applying a VAT rate other than that resulting from the received WIS. After the change of regulations, WIS is to be binding not only for tax authorities - as is the case now - but also for entities for which it was issued. Moreover, the amendment provides for the retroactive effect of this provision, which means that in practice it will impose on all entities that

obtained WIS before the date of entry into force of the amendments the obligation to apply them. Therefore, taxpayers will also be bound by WIS issued before the entry into force of the SLIM VAT 3 package. The package entered into force on 1 July 2023. For more information on the SLIM VAT 3 package, see our tax alerts.

New tax explanations addressed to PIT payers

↓ On 30 June, tax consultations on the draft tax explanations regarding the obligations of the payer of personal income tax imposed on entities implementing twinning programs ended. The new explanations contain information on the obligations of the payer of income tax consisting in the calculation, collection and transfer of tax collected on the benefits provided to the taxpayer by the payer in connection with the twinning program. **For more information, see our tax alert.**

The EU is consulting a set of Sustainability Reporting Standards

↓ The European Commission has held open consultations regarding drafts of the first set of European Sustainability Reporting Standards (ESRS). Directive (EU) 2022/2464 as regards corporate sustainability reporting (Corporate Sustainability Reporting Directive, CSRD) significantly extends the subjective and objective scope of sustainable development reporting. The extended





group of enterprises will be obliged to present a greater than now and unified scope of information on sustainable development. **For more information, see our ESG alert.**

The European Parliament wants to regulate the rules of internships

↓ The European Parliament called on the European Commission to prepare new regulations that would guarantee high quality of internships in the European Union. The new directive should lay down minimum quality standards, including rules on the duration of internships as well as remuneration and access to social security in accordance with national law and practice. Internships should be adequately remunerated, covering at least basic living necessities such as food, housing and transport, taking into account the cost of living in each Member State.

The Sejm passed an act introducing e-invoicing as of July 2024

↓ On 16 June 2023, the Sejm passed an amendment to the Act on Value Added Tax the purpose of which is to

introduce, as of mid-2024, the obligation to use the National e-Invoice System (KSeF) when issuing invoices. During the voting process, the Sejm adopted several amendments, including but not limited to: provisions under which the failure period will be determined by the time of publication of messages about the beginning and end of the failure. Members of Parliament also introduced the possibility of announcing a message about another system failure. **For more information, see our tax alert.**

Record indexation of accounts and sub-accounts of the insured with ZUS

↓ The balance of accounts and sub-accounts of insured persons increased by PLN 450 billion as a result of the annual indexation of contributions carried out by ZUS in June. Last year it was less than PLN 281 billion. As every year, ZUS indexes the pension capital of Poles in June to compensate for inflation and other economic processes for the previous year. Data from annual indexation are available on the Electronic Services Platform (PUE) of ZUS. They will also be inclu-

ded in the information on the balance of the insured's account as at 31 December 2022, which ZUS prepares every year.

The National Labor Inspectorate has started inspections of remote work in companies.

↓ The purpose of the inspection is to assess the state of compliance of employers with the provisions on remote work introduced to the Labor Code with the above-mentioned act. Inspections are carried out by all district labour inspectorates under the new topic "Compliance with the law when employing employees remotely". The scope of inspection corresponds to, inter alia, the provisions of the Labor Code, the provisions of the Regulation of the Minister of Family, Labor and Social Policy of 10 December 2018 on employee documentation in the scope of remote work, and issues related to the subject of inspection included in the specialised checklist.

Since July, preferential ZUS contributions have increased

↓ Taxpayers who run a business and benefit from preferential social insurance contributions

for the first 24 calendar months from the start of business must remember that for July 2023 contributions will have to be paid in a new, higher amount. For this group of entrepreneurs, social insurance contributions in the period July-December 2023 amount to: PLN 210.82 (i.e. 19.52% of the base) - for old-age pension insurance, PLN 86.40 (i.e. 8% of the base) - for disability disability pension insurance, PLN 26.46 (i.e. 2.45% of the base) - for sickness insurance.

According to the Ministry of Family and Social Policy, civil law contracts are not abused in Poland

↓ ZUS data do not confirm that civil law contracts replace employment contracts, claims the Ministry of Family and

Social Policy. In response to the interpellation, Minister Marlena Maląg informed that according to the data of the Social Insurance Institution (ZUS), as at 31 March 2023, 1,285,655 people performing civil law contracts were registered for old-age and disability pension insurance, while 11,636,749 people were reported as employed under an employment contract. According to the Ministry, these data do not confirm the thesis that civil law contracts replace employment contracts and are abused on the Polish labour market. This conclusion also applies to contracts for specific work, because according to the latest ZUS report for 2022, only 75.1 thousand entities reported contracts for specific work using the RUD form.

In 2024, the minimum wage will increase to gross PLN 4,300
↓ Due to high inflation, employers face another signifi-

cant increase in the cost of employing those employees who receive the minimum wage. The government has adopted assumptions for the state budget for 2024 which show that the minimum wage will increase next year from January to PLN 4,242, and from July to PLN 4,300. The minimum hourly rate from 1 January 2024 will be PLN 27.70, and from 1 July - PLN 28.10 (from 1 July 2023, the hourly rate will be PLN 23.50). In accordance with the procedures in force in Poland, the government will now consult the amount of the proposed minimum wage with the Social Dialogue Council, which includes representatives of the government, trade unions and employers' organisations. The Council must submit its proposal to the Council of Ministers by 15 July. **For more information on that subject, visit our website.**



Important interpretations and rulings

Equivalent for the purchase of a computer by an employee exempt from PIT

➡ If the equivalent is paid in cash and corresponds to the expenses incurred by employees in connection with the use of their own company computer and accessories that will be their property and these items will be used by employees to perform work for the employer, the cash equivalent paid for the purchase of computer and accessories will be exempt from personal income tax. In consequence, the company will not be obliged to calculate, collect and pay personal income tax advances on account of the equivalents provided to employees - as results from the individual tax ruling of 1 June 2023 (No. 0112-KDIL2-1.4011.306.2023.1.TR).

A mandate concluded during the period of being on unpaid leave is covered by contributions

➡ During the period when the employee is on unpaid leave, there is no obligation to pay social security contributions due to the employment relationship, but then the obligation to pay social security contributions under the contract of mandate concluded with the principal will arise, so the client, as the payer of contributions, should report the mandatory to social insurance and pay social security contributions for him/her under the contract of mandate concluded with him/her - as stated by ZUS in the individual ruling of 13 October 2022 (No. WPI/200 000/43/1080/2022).

The payer cannot retrospectively correct advance payments

➡ A company, as the payer, is not authorised to make adjustments to the advance income tax on the contractor's remuneration paid in 2022. Therefore, the company is not obliged to correct the PIT-11 information and the PIT-4R return,

because these documents reflected the income and collected income tax advances in accordance with the actual state of affairs that existed in 2022 - stated the Director of the National Tax and Customs Information Office in the individual tax ruling of 5 June 2023 (No. 0112-KDIL2-1.4011.265.2023.2.MKA). The payment of the contractor's remuneration took place in 2022, but the undue remuneration was returned in February 2023, i.e. in the next tax year.

The beneficiary of the credit for innovative employees is the employer

➡ The beneficiary of the credit for innovative employees is a taxpayer who is also the personal income tax payer - i.e. an entrepreneur, not an employed employee. The regulations do not specify how the beneficiary of the credit in question may use the funds resulting from its application and, therefore, has discretion in this respect - explained the Ministry of Finance in response to a media question on 17 May 2023. It was emphasised that the credit is not a solution to increase remuneration of employees; however, the taxpayer may opt for such a solution, as it is free to dispose of the funds generated through the application of the credit in question.

The duration of employment does not prove the ostensible nature of the contract

➡ The mere desire to obtain social insurance benefits does not indicate an intention to circumvent the law. In addition, the law does not make the effectiveness of establishing an employment relationship dependent on the duration of the contract or the employee's health condition. This means that a sudden interruption of the relationship with the employer or failure to perform the contract within the agreed time due to deterioration of health may not have a negative impact on the resulting social insurance relationship and the resulting consequences - according to the judgment of the District Court for Warsaw-Praga of 4 April 2023 (case file ref. no. VII U 666/22). In the considered case, the employee became incapable of work after ten days of work. The Social Insurance Institution (ZUS) decided that the employment contract was concluded for an ostensible purpose, so the employee is not subject to compulsory social insurance.

CALENDAR (most important deadlines)

- ✓ payment of ZUS contributions for June 2023 - payers of contributions having legal personality
- ✓ payment of the recycling fee for plastic bags, collected in Q2 2023
- ✓ payment of contributions for PPK



- ✓ payment of ZUS contributions for June 2023 - other payers of contributions
- ✓ payment of the monthly personal and corporate income tax advance for June 2023 and payment of the personal and corporate income tax advance for the second quarter of 2023
- ✓ payment of advances collected for income under the employment relationship for June 2023
- ✓ payment of collected income tax advances or lump-sum income tax by the payers for June 2023
- ✓ payment of the tax advance collected for June 2023 by the dominant company representing a tax capital group
- ✓ payment of the due lump-sum tax if the dividend income and other income on share in profits of legal persons was expended in June 2023 not in compliance with the intended allocation specified in the return (CIT-5)
- ✓ payment of the tax advance by a real estate company for June 2023 (PIT-ISN and CIT-ISN)
- ✓ payment of the income tax on income on a fixed asset in the form of a building for June 2023
- ✓ payment for PFRON for June 2022
- ✓ payment of the lump-sum on income on: concealed profits and expenses not connected with the business activity - if pay-out was made, expense incurred or service provided in June 2023; change of the value of assets - if acquisition, transformation was executed or in-kind contribution was made in June 2023
- ✓ payment for PFRON for June 2023
- ✓ payment of tax on service or property the family foundation provided or made available in June 2023



CALENDAR



- ✓ payment of VAT for June 2023 and Q2 2023
 - ✓ filing of VAT-8, VAT-9M, VAT-12 declarations for June 2023
 - ✓ sending of JPK_V7M file for June 2023
 - ✓ sending of JPK-V7K file for June 2023 (registered part) and for April, May and June 2023 (declared part)
 - ✓ sending of summary information on intra-Community EU-VAT transactions for June 2023
 - ✓ filing of VAT-13 declaration for June 2023 by the tax representative
 - ✓ settlement of sugar tax due for June 2023
 - ✓ settlement of retail sale tax PSD-1 for June 2023
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- ✓ filing of the application for refund of old-age and disability pension contributions paid for October May 200 by disabled persons conducting a business activity with PFRON
 - ✓ filing the declaration for settlement of VAT in the scope of VIU-DO import procedure for June 2023 and filing the declaration for VAT settlement in the scope of VIU-DO EU procedure for Q2 2023
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- ✓ payment of the lump-sum income tax collected in July 2023 on dividend income and other income on share in profits of legal persons, and delivery of CIT-7 information to the taxpayers
 - ✓ payment of the lump-sum tax on income originated in July 2023 by the acquiring company
 - ✓ filing of the declaration of income on unrealised profits (PIT-NZ and PIT-NZS) for July 2023
 - ✓ filing of the declaration of income on unrealised profits CIT-NZ for July 2023 and payment of the due tax disclosed in that declaration
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- ✓ filing of the INTRASTAT notification for July 2023



- ✓ payment of ZUS contributions for July 2023 - payers of contributions having legal personality
- ✓ payment of contributions for PPK



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CALENDAR



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