

# BS&O ALERT



## Information

### Remote work regulations in effect as of 21 February 2023

**U**nder the new provisions of the Labor Code employers must provide remote workers with the materials and tools, including technical devices, necessary to perform remote work. They must also cover the costs associated with remote work. Chapter IIc, regulating remote work, has been added to the Labor Code. Under the new regulations that became effective as of 21 February 2023, work may be 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. The Code provides that the parties to the employment contract can agree on remote work either at contract conclusion, or in the course of employment. In the case of the latter, this may be done at the initiative of the employer or at the employee's request submitted in paper or electronic form. In addition, the Code lists cases when remote work may be mandated by the employer. This will be possible during a state of emergency, state of epidemic threat or state of epidemic and for 3 months after they are lifted, or in a period when the employer is temporarily un-

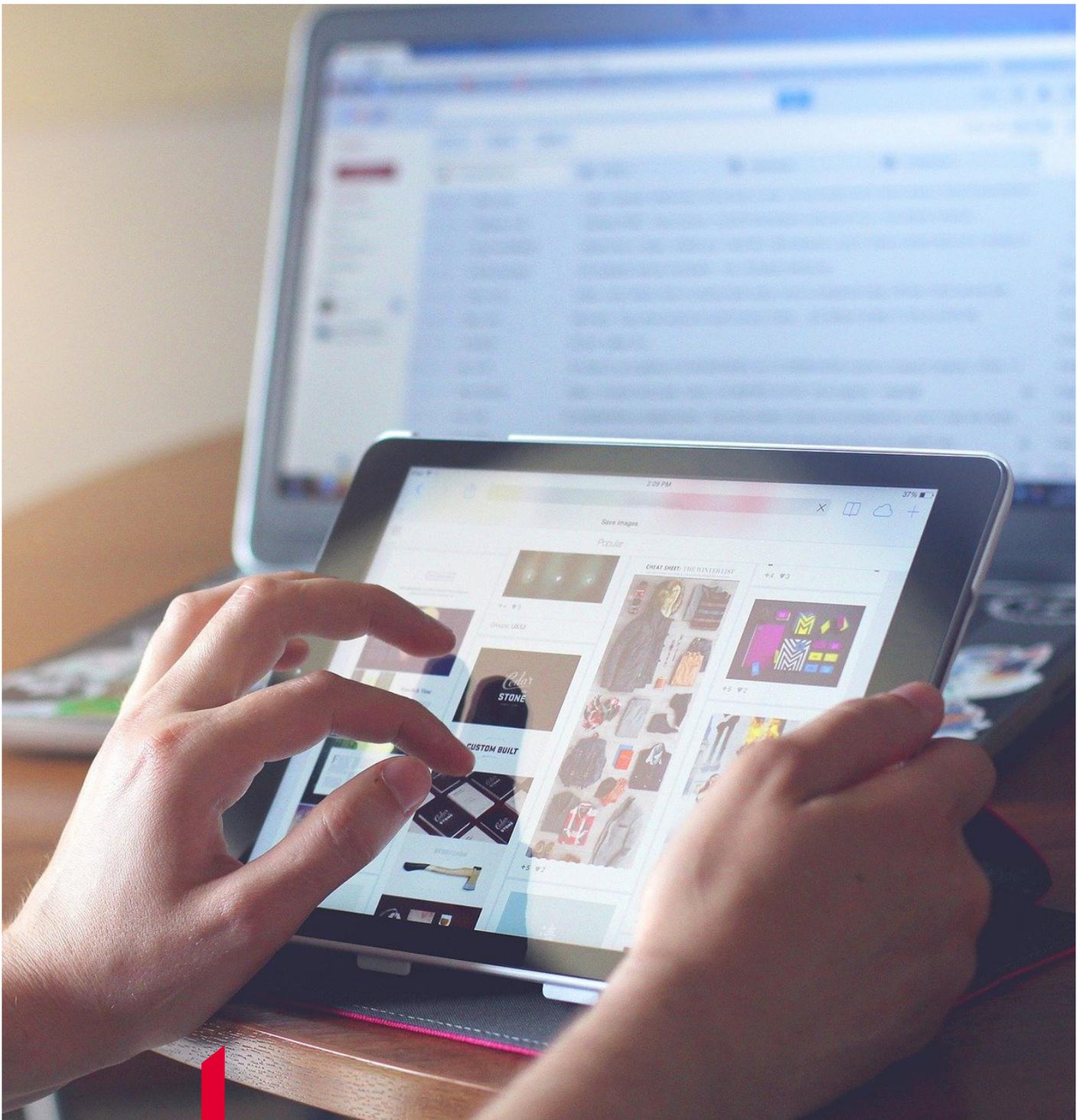
able to provide safe and healthy working conditions at the current place of work performance due to a force majeure. The Code does, however, introduce an additional condition, i.e. submission by the employee, directly prior to the mandate being issued, of a declaration, in either paper or electronic form, confirming that the employee has the necessary accommodations and technical means to perform work remotely. In such cases the employer will at any time be able to withdraw the remote work mandate with at least a two-week's notice.

The new regulations also provide that the rules of remote work performance will be set out in an agreement concluded between the employer and the company's trade union organization, and if there is more than one trade union organization - agreement between the employer and those organizations. The regulations specify the procedure for the conclusion of such agreements, and the scope of matters regulated therein. If an employer has no trade unions, the employer will set out the rules of remote work performance in relevant regulations in consultation with employee representatives chosen as is customary at that employer.

The Labor Code also provides that the employer is required to: firstly, provide his remotely working employees with work materials and tools, including technical devices, necessary to perform remote work; secondly, ensure the installation, service and main-

tenance of work tools, including technical devices, necessary to perform remote work, or cover the necessary costs of installation, service, operation and maintenance of such tools, including technical devices, necessary to perform remote work, as well as cover the costs of electrical energy and telecommunications services necessary to perform

remote work; thirdly, cover costs other than those directly associated with the performance of remote work, if the reimbursement of such costs has been specified in the relevant agreement or regulations; and fourthly, provide the remote employee with training and technical support necessary to perform the work.



## Employee sobriety checks in the Labor Code

**U**nder the new provisions of the Labor Code in effect as of 21 February 2023, employers can perform employee sobriety checks if necessary to protect the lives and wellbeing of employees or others, or to protect certain assets. Sobriety checks cannot violate the employee's dignity or other personal rights.

In accordance with the new provisions of the Labor Code, employers will 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. According to the new provisions, at the request of the employer or employee who was not allowed to work, a sobriety check is performed by an authorized law enforcement body.

The Labor Code provides that the introduction of sobriety checks, the group or groups

of employees subject to sobriety checks and the method used to perform sobriety checks, including the type of devices used to perform such checks, the timing and frequency of the checks, are to be set out in a collective bargaining agreement or work regulations, or in cases where the employer has no collective bargaining agreement or is not required to have work regulations, in an announcement. Employers are to inform employees about the introduction of sobriety checks in the manner customarily used at the given employer, no later than 2 weeks prior to the start of the check.

In connection with the changes made to the Labor Code, the decree on employee documentation will be changed to reflect the new regulations on employee sobriety checks. Employee personnel files will include documents relating to sobriety checks performed by the employer, as well as to sobriety checks performed by a law enforcement body. In consequence, section B of the personnel file will be expanded to include documents confirming that the employee has been informed of the introduction of checks for the presence of alcohol or other similarly acting substances, the group or groups of employees subject to such checks and the method used to perform the checks. A new section E will also be added, containing information on sobriety checks.



## New ZUS RCA and ZUS DRA declaration forms published

A decree introducing changes to declarations ZUS RCA and ZUS DRA has been published in the Journal of Laws. The changes in the two declarations will go into effect as of 1 May 2023.

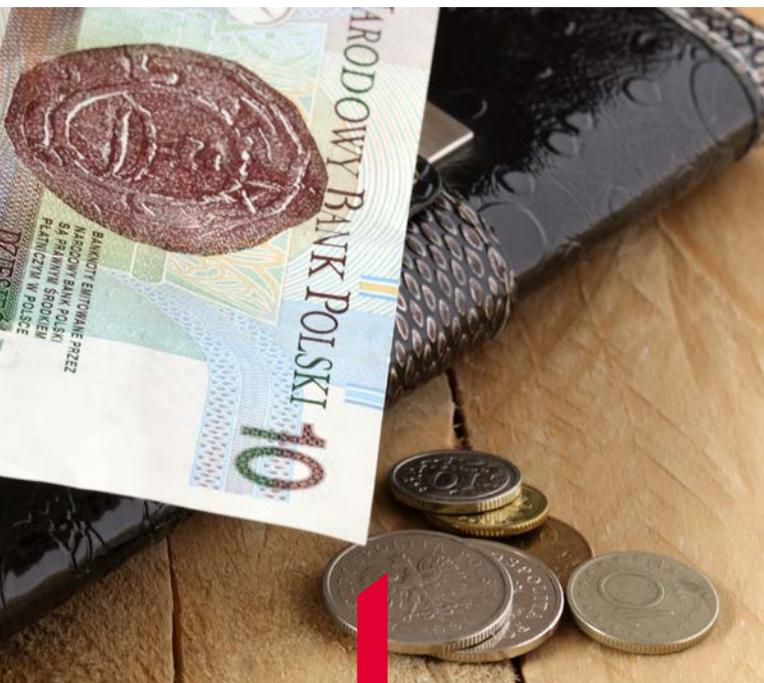
The Ministry of Family and Social Policy has published its decree of 31 January 2023 amending the decree on the specimen forms for submission to social insurance and health insurance, individual monthly reports and corrective individual monthly reports, premium remitter notifications, payment declarations and corrective payment declarations, submission of data about work in special conditions or of a special nature, information reports, declarations of intent to file information reports, information on concluded specified work contracts and other documents (2023 Journal of Laws, item 258). The decree introduces new forms for individual monthly reports on premiums due and benefits paid (ZUS RCA) and payment declarations (ZUS DRA). Modifications will be made to section XII of ZUS DRA and section III.F of ZUS RCA. They consist of adding data used to calculate the annual premium separately for each form

of taxation, adding a field with the amount of tax due for the reporting year and adding fields with information on changes in the form of taxation.

To recap, in accordance with the regulations in effect since 1 January 2022, traders must calculate health insurance premiums at an amount that is based on income or on revenues. Health insurance premiums are accounted for annually, as well as monthly. In 2023, annual health insurance returns will have to be filed by those traders who in the preceding year (2022) chose taxation on the tax scale, with a flat tax and with lump-sum tax on registered income. Annual health insurance returns are filed on ZUS DRA for April 2023 by 20 May 2023 and will cover the period from 1 February 2022 to 31 January 2023 (premium period). In consequence, in 2023 the health insurance premium remitter is required to account for health insurance premiums that covered revenues or income for the period from January to December 2022.

In cases where the form of taxation is changed retroactively in accordance with the so-called Polish Deal 2.0, which exceptionally permitted such changes in either the middle of 2022 or in the return for 2022, taxable persons are not able to freely choose the form of taxation. Taxation on the tax scale is the only option. As a result, taxable persons taxed with a flat tax and with lump-sum tax on registered income can abandon those forms of taxation and decide to be taxed on the tax scale. This will lead to the need to account for the health insurance premium on the terms set out for the newly selected form of taxation.

The above-described decree entered into force on the day of its publication in the Journal of Laws (February 8) and with effect from 1 January 2023. At the same time it provides that the regulations amending forms ZUS RCA and ZUS DRA will become effective as of 1 May 2023.



## In short:

### Further tightening of VAT in the e-commerce sector

↓ The Council of Ministers has adopted a draft bill increasing the effectiveness of VAT tightening. It will require banks and other financial institutions to keep, store and send to the head of KAS a record of specified payment transactions. The bill will cover cross-border payments where the payment service provider performs more than 25 payments to the same payee in the course of a quarter. The draft bill implements Directive 2020/284 amending the VAT Directive as regards introducing certain requirements for payment service providers. The new regulations are to go into effect as of 1 January 2024.

### Financial statements by end of March, but CIT-8 by end of June

↓ The Ministry of Finance has announced that this year it

will not extend reporting deadlines. In consequence, the final reporting deadlines for 2022 (where the financial year is concurrent with the calendar year) are: 31 March 2023 - preparation of financial statements; 30 June 2023 - approval of financial statements; 15 July 2023 - filing of financial statements with the relevant court register. Whereas the Ministry of Finance is working on a decree that extends by 3 months, i.e. until 30 June 2023, the deadline for the filing of CIT-8 (annual return) and the deadline for the payment of the tax declared in the return for 2022. [More on this on our website.](#)

### Employees must opt out of PPK by end of February or be reenrolled

↓ On 1 April 2023 employers will have to make contributions to employee capital plans for those employees

who had previously submitted opt-out declarations (so-called automatic enrollment). Employees can, however, opt out again. This should be done by the end of February 2023. The recently introduced automatic enrollment obligates employers to automatically enroll employees in PPK every 4 years. For the first time in 2023. Another automatic enrollment will take place in 2027. Automatic enrollment applies to those who had previously - following the submission of opt-out declarations - not concluded PPK agreements.

### Employee sobriety testing decree has been drafted

↓ The Government Legislative Center has published a draft of a decree on testing employees for the presence of alcohol or similarly acting substances (MZ 1444). It executes the statutory delegation set out in the amended



Labor Code. The draft decree provides that a person tested with a breath analyzer (so-called breathalyzer) using electrochemical oxidization can demand that the test be verified with a breath analyzer using infrared spectroscopy. The cost of purchasing the latter can reach several thousand zlotys.

#### **Mandatory e-invoice system postponed by six months**

↓ The Ministry of Finance has held extensive public consultations of a draft bill introducing e-invoice as a universal settlement system. The proposed changes include postponing KSeF's effective date

from 1 January 2024 to 1 July 2024 and excluding consumer invoices. The amended draft also provides for extending by another six months the deadline for the implementation of KSeF by taxable persons with a subjective VAT exemption - for them KSeF will be mandatory as of 1 January 2025. At the same time, coupons that serve as invoices (including toll receipts) will be excluded from KSeF. [More on this on our website.](#)

#### **Important Labor Code amendments passed by the Sejm**

↓ On 8 February the Sejm passed amendments to the Labor Code regarding, among

others, annual leave and working time, parental leave and employment contracts. Based on these provisions, employees who have worked for at least 6 months will have a right to once a year apply for a change in the type of contract - to a permanent employment contract, or for more predictable and safe working terms. In addition, the new regulations include additional breaks for those working for longer than 8 hours, changes in parental leave, the right to five days of carer's leave and 2 days of force majeure leave, as well as wider use of flexible working arrangements. [More on this in our labor law alerts.](#)



## Important interpretations and rulings:

It's enough that the employee had the opportunity to read the termination notice

➔ The deadline to appeal an employment contract termination without notice is counted from the day on which the employer's statement reached the employee in a manner that allowed him to become familiar with its contents, even if he refuses to do. The deadline is not affected by the desire to consult a lawyer. This is because labor law does not have a rule whereby the employee decides when he is ready to take delivery of the employer's statement - indicates a ruling issued by the District Court in Sieradz on 27 December 2022 (case file IV Pa 35/22).

**Taxable person may deduct VAT based on notarial deed**

➔ VAT may be accounted for based on a notarial deed, as long as it clearly confirms the conclusion of the transaction and states its terms. The absence of an invoice does not automatically eliminate eligibility for a deduction - the Voivodship Administrative Court in Bydgoszcz ruled on 10 January 2023 (case file I SA/Bd 592/22). According to the Court, in the disputed case the facts were clear and speci-

fic. They showed that the transaction took place and that all of the material requirements needed to deduct VAT were met. For this reason it is the Court's view that the mere absence of an invoice does not take away the company's eligibility for a VAT deduction, in this case arising out of a document such as a notarial deed.

**Wages of employees working on trade shows not covered by expansion relief**

➔ Expansion relief does not cover the wages of employees working on trade shows. This includes those working for the company based on employment contracts, as well as contractors. In addition, expansion relief cannot be used when providing samples and organizing tastings - indicates an individual tax interpretation issued by a Tax Administration Director on 19 January 2023 (number 0111-KDIB1-3.4010.565.2022.2.AN). The tax authorities have classified the costs of employing a cook for a tasting, operating a trade show stand, and accommodations and meals for the company's management (main shareholder) as not eligible for a deduction. They also stressed that the relief allows for a deduction of the costs of accommodations and meals for employees, but not of their wages.

**There is no tax on an empty invoice in the absence of eligibility to deduct VAT**

➔ The authorities cannot demand tax on so-called empty invoices if the buyer is not eligible for a deduction. Invoices issued to entities that are not eligible to deduct input tax (such as consumers) are not covered by Article 203 of the VAT Directive. In consequence, the provision on empty invoices does not apply to situations where, contrary to regulations, the invoice contains a VAT amount, but is issued to an entity that is not eligible to deduct input tax (such as a consumer, public entity, exempt taxable person) - states a ruling issued by the Court of Justice of the European Union on 8 December 2022 (case C-378/21).



## CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for January 2023 - other premium remitters
- ✓ Payment for January 2023 of monthly or quarterly advance for personal income tax and corporate income tax
- ✓ Payment for January 2023 of advances collected on employment income
- ✓ Payment for January 2023 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 January 2023
- ✓ Payment of lump-sum tax if in January 2023 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 January 2023 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for January 2023 of income tax on income from a fixed asset that is a building
- ✓ Payment for January 2023 to PFRON
- ✓ Submission for the purposes of business activity of a written declaration of a change in the form of taxation, if the taxable person intends to make such a change and the first income for the tax year was generated in January



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- ✓ Payment of VAT for January 2023
  - ✓ Filing of VAT-8, VAT-9M, VAT-12 for January 2023
  - ✓ Transmission of SAF\_V7M for January 2023
  - ✓ Transmission of SAF\_V7K for January 2023 (record and declaration section)
  - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for January 2023
  - ✓ Filing by tax representative of VAT-13 for January 2023
  - ✓ Reporting of sugar tax for January 2023
  - ✓ Reporting of retail sales tax PSD-1 for January 2023
  - ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for January 2023



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- ✓ Submission (electronically) to the Head of National Tax Administration of transfer pricing information TPR-C, for which the filing deadline passed in November 2022
  - ✓ Submission (electronically) to the tax office of a declaration on the preparation of local transfer pricing documentation, for which the filing deadline passed in November 2022
  - ✓ Provision to taxable person of information on revenue from other sources and on income and income tax advances collected in 2022 (PIT-11)
  - ✓ Provision to taxable person of information on certain income from capital gains in 2022 (PIT-8C)
  - ✓ Provision to taxpayer of annual tax calculation by a pension authority/information about income obtained from a pension authority for 2022 (PIT-40A/11A)
  - ✓ Provision to the tax office (only electronically) and person with limited tax liability of individual information about revenue (income) earned in 2022 (IFT-1R)
  - ✓ Provision (to the taxable person) of information about the amounts paid to the taxable person for the performance of social and civic duties for 2022 (PIT-R)



- ✓ Submission to PFRON by disabled persons who conduct business operations of an application for a refund of pension and disability premiums paid for December 2022
- ✓ Provision to the insured of information for the year 2022 on the data contained in the individual monthly statements prepared for ZUS, broken down by month
- ✓ Filing of VAT declaration relating to import procedure VII-DO for January 2023

## CALENDAR



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- ✓ Payment of lump-sum income tax collected in February 2023 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 February 2023
  - ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for February 2023
  - ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for February 2023 and payment of output tax indicated in the declaration



✓ Filing of INTRASTAT for February 2023



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

- ✓ Payment of ZUS premiums for February 2023 - remitters with legal personality
- ✓ Payment to PPK



## CALENDAR

MARCH 2023						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## O BDO

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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.*