

BS&O ALERT



Information

Annual health insurance premium returns

Each non-agricultural trader who pays their own health insurance is in 2023 for the first time required to file an annual health insurance premium return. Its purpose is to determine the health insurance premium for the given year based on the revenue/income earned in that year. Health insurance premium for the year 2022 must be accounted for in 2023. Premium remitters will file such returns for the first time. The deadline for the filing is 22 May 2023.

An annual health insurance premium return must be filed by each premium remitter who in 2022 applied one of the following forms of taxation: general terms – on the tax scale, general terms – flat-rate tax, lump-sum tax on registered income. The annual return is filed in the declaration for April 2023, i.e. ZUS DRA (section XII), if the remitter is a sole trader, or ZUS RCA (section III.F), if the remitter also pays premiums for others (e.g. employees, contractors). The annual health insurance premium return for 2022 will therefore have to be filed by 22 May 2023.

In accordance with the relevant decree, new forms ZUS DRA and ZUS RCA that include the information necessary for the annual returns, will go into effect as of 1 May 2023, i.e. starting with the April declarations (which can be filed using the *Platnik* and *ePlatnik* programs).

The said decree is the Minister's of Family and

Social Policy 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).

If the annual return reveals that the health insurance premium was overpaid, the remitter will be entitled to a refund – unless he is in arrears for premiums or improperly collected social insurance benefits. Whereas an underpayment of premiums will mean the need to pay the outstanding amount with the premium for April 2023, i.e. by 22 May. An application will have to be filed to get a refund. Such an application will be available on the remitter's profile on the (PUE) ZUS platform. The application will have to be signed and then sent to ZUS. Please note that the application will have to be sent by 1 June 2023. ZUS will then transfer the overpayment to the bank account listed on the premium remitter's account, no later than by 1 August.

A reminder from ZUS: remitters are required to file declarations on the amount of health insurance premium for each month of conducting business operations in 2022. Documents correcting the amount of health insurance premiums for 2022 may be filed no later than on the refund application filing date or by 30 June 2023 – if the remitter is not applying for a refund.

Annual health insurance premium calculation base

Traders taxed on general terms (tax scale or flat-rate) or with lump-sum tax on registered income are required to determine the health insurance annual calculation base and premium.

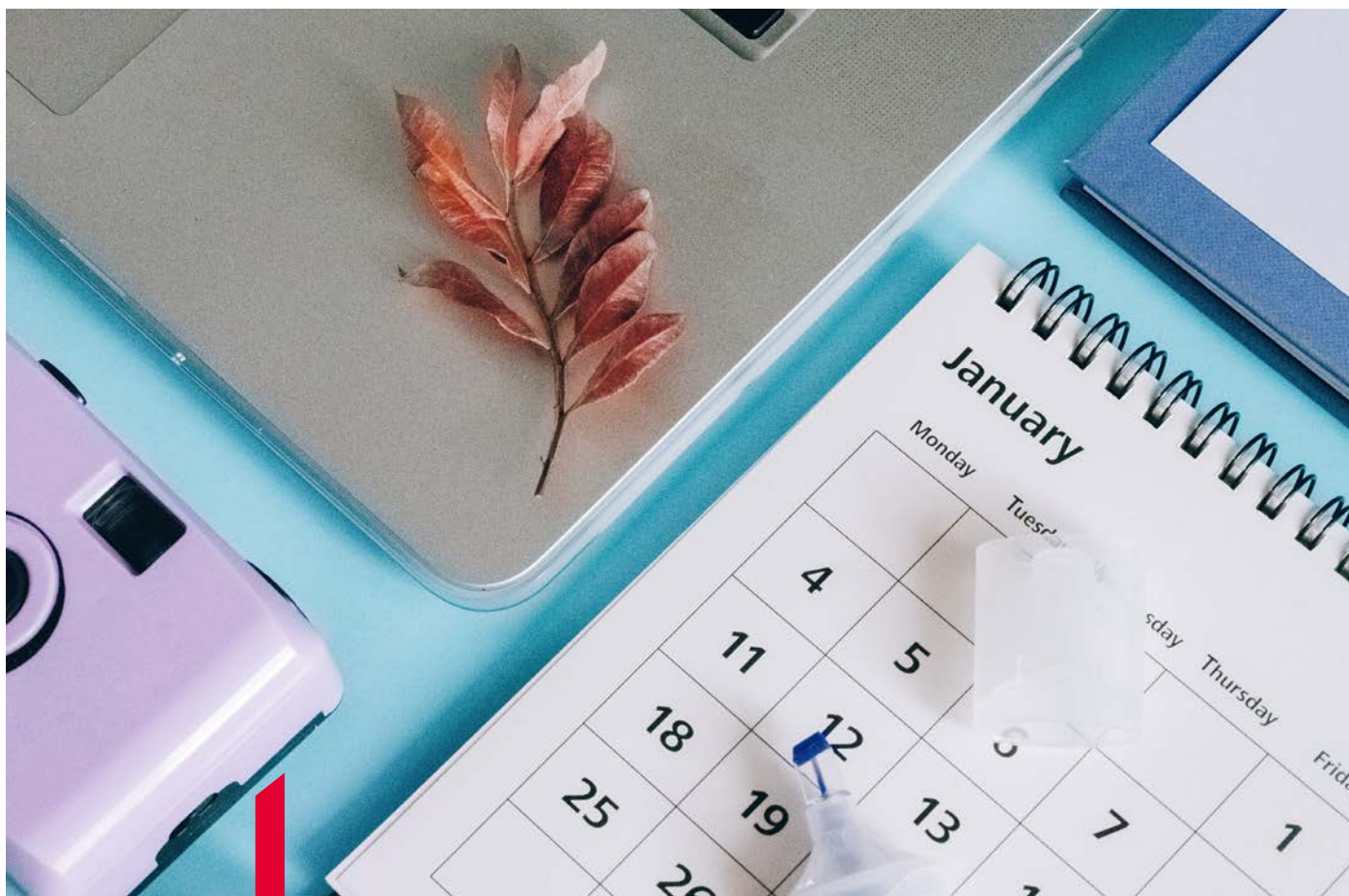
The annual health insurance premium calculation base is determined for a premium year, which lasts from 1 February of a given year to 31 January of the next year.

The annual calculation base is the income from business operations determined for the calendar year as the difference between the revenue earned and the costs of earning that revenue, as defined in the Personal Income Tax Act. This income is also reduced by the amount of retirement, disability, sickness and accident insurance premiums paid in that year, if they have not been added to tax-deductible costs.

Annual income is, as a rule, determined without considering the majority of the broadly de-

finied tax-exempt revenues, i.e. revenues that are not subject to taxation based on the provisions of the PIT Act, as well as based on other regulations, e.g. decrees on cessation of tax collection. There are, however, many exceptions to this rule. This is because the premium calculation base must include revenues exempt from PIT under: zero PIT repatriation relief; zero PIT family 4+ relief; zero PIT for working seniors (Article 21 par. 1 points 152-154 of the PIT Act); revenues from business operations conducted in a special economic zone and from a new investment project described in a decision to provide support (Article 21 par. 1 points 63a and 63b of the PIT Act).

Whereas excluded are the revenues earned while business operations are suspended based on the Business Operators Act, as are the tax-deductible costs incurred in that period and revenues for the months covered by a health



insurance premium payment exemption (Article 82 par. 8-9a of the Health Insurance Act). In such cases, also excluded are the tax-deductible costs and social insurance premiums for those months. Also excluded are revenues resulting from the disposal of fixed assets depreciated prior to 2022, which means that if depreciation charges were included in tax-deductible costs, they are not added to income. Whereas inventory differences are taken into account in the calculation of income (for 2022, there is no increase in income if the closing inventory balance is higher than the opening balance).

Importantly, the annual premium calculation base determined based on income cannot be lower than the minimum annual calculation base. The minimum annual calculation base is determined by multiplying the minimum wage in effect on the first day of the premium year by the number of months covered by health insurance in the calendar year for which the

annual income is being determined. The number of months covered by health insurance does not include the months exempt from the payment of premiums based on Article 82 par. 8-9a of the Health Insurance Act.

For 2022, the minimum wage amounted to PLN 3010. Thus the minimum annual calculation base for a person covered by health insurance for the entire year amounts to $12 \times \text{PLN } 3010$, i.e. PLN 36 120.

It is important to remember that although for those taxed with flat-rate tax the premium amounts to 4,9% of the calculation base, the premium determined on the annual base cannot be lower than 9% of the product of the number of months covered with health insurance and the minimum wage in effect on the first day of the premium year. Therefore, the minimum premium for 2022 amounts to PLN 3250,80.

For lump-sum tax on registered income, the annual base is determined on total income from business operations, less retirement, disability, sickness and accident insurance premiums. No deduction is, however, made of the premiums paid in the months exempt from health insurance premium based on Article 82 par. 8-9b of the Health Insurance Act.

The 2022 annual health insurance premium calculation base for those taxed in the form of lump-sum tax on registered income amounts to:

PLN 44791,44 – if the income for that year did not exceed PLN 60 thousand (the number of months covered with health insurance in the given year multiplied by 60% of the average monthly salary in the fourth quarter of 2021).

PLN 74652,48 – if the income for that year was higher than PLN 60 thousand and lower than PLN 300 thousand (the number of months covered with health insurance in the given year multiplied by 100% of the average monthly salary in the fourth quarter of 2021).

PLN 134374,44 – if the income for that year exceeded PLN 300 thousand (the number of months covered with health insurance in the given year multiplied by 180% of the average monthly salary in the fourth quarter of 2021).



New employment contract solutions in effect as of 26 April

26 April 2023 is the effective date of the new Labor Code provisions that, among others, change the regulations on employment contracts, employer disclosure requirements, additional work breaks, introduce carer's leave and force majeure leave, and modify parental leave. They also permit the conclusion of employment contracts with more than one employer at the same time.

The Act of 9 March 2023 amending the Labor Code and certain other acts was published in the Journal of Laws on 4 April 2023. In accordance with Article 46 of the document, the Act goes into effect 21 days after its publication, i.e. as of 26 April 2023. The purpose of the

amendments is to implement into the Polish legal system: Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union, and Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers.

The amendments widen the scope of information on the terms and conditions of employment that employers will be required to provide to their employees. The employer will have to inform his employee, in paper or electronic form, no later than within 7 days of admitting the employee to work, of the following: the daily and weekly working time norms that



apply to the employee; the breaks to which he is entitled; the daily and weekly rest to which he is entitled; the rules on overtime work and overtime pay; for shift work – the rules on moving from shift to shift; for work at several locations – the rules on moving between those locations; non-contractual components of remuneration and benefits in cash or in kind; the rules on terminating employment; the right to training; any collective labor agreement or another collective agreement; where the employer has not established work regulations – of the date, place, time and frequency of pay; night time hours and the method adopted by the employer for employees to confirm their arrival and presence at work and to excuse absences from work. It will also be necessary to inform of the right to training or the length of paid annual leave.

Two additional breaks, included in working time, have also been added to the Labor Code. Employees will be entitled to: a se-

cond break of at least 15 minutes, if their daily working hours are longer than 9 hours; a third break of at least 15 minutes, if their daily working hours are longer than 16 hours. Today employees are only entitled to one break. In consequence, after the changes, where an employee's working hours: amount to at least 6 hours – the employee will be entitled to a break of at least 15 minutes; to more than 9 hours – an additional break of at least 15 minutes (i.e. two breaks of 15 minutes); to more than 16 hours – the employee will be entitled to another break of at least 15 minutes (i.e. will get three 15-minute breaks). Another important change is that employees will also be entitled to free training during working hours, as necessary to perform the given type of work or position. The regulations will clearly require that such training be included in the employee's working hours.

More on this in our labor law alert.



In short:

ZUS can reclassify a contract for a specific work as a contract for services

↓ In response to parliamentary inquiry number 39214 directed to the minister of family and social policy with regard to contracts for a specific work relating to copyrighted content, further to an increase in ZUS audits at entities from the marketing industry, on 10 March 2023 Stanisław Szwed, secretary of state at the

Ministry of Family and Social Policy explained the rules based on which ZUS can examine the nature of contracts in the context of classifying them as either contracts for services or for a specific work. He indicated that the Social Insurance Office, which determines if one is subject to social insurance, can – irrespective of the contract's name and its provisions indicating the nature of the legal relationship the parties intended to

enter into – determine its true nature and existing title to insurance. [More on this in our labor law alert.](#)

SLIM VAT 3 to go into effect in July

↓ On Friday, 14 April 2023 the Sejm passed amendments to the Value Added Tax Act and certain other acts, referred to as Slim VAT 3. As part of the SLIM VAT 3 package, the limit of sales for small taxable persons has



been raised from 1,2 to 2 million euro. The amount that makes it possible to find that the proportion of the deduction determined by the taxable person amounts to 100 percent in situations where it exceeds 98 percent will also increase - from the current PLN 500 to PLN 10 thousand. The new regulations will make it easier for traders to keep a record of sales using cash registers, by, among others, making it possible to opt out of the obligation to print fiscal documents. [More on this in our tax alert.](#)

ZUS financing for occupational safety projects

↓ ZUS has announced that premium remitters can get financing for projects that improve occupational safety and reduce the negative impact of harmful agents in the workplace. Applications may be submitted from 17 April to 18 May 2023. Each premium remitter can get financing for as much as 80% of the value of the project, but no more than PLN 300 thousand. The projects can involve the purchase of machines, equipment and devices that protect against noise and mechanical vibrations, elec-

tromagnetic radiation, devices used to improve the safety of work at height. Applicants cannot be behind on the payment of social insurance and health insurance premiums or taxes, be in a state of bankruptcy, under receivership, in liquidation, or in the course of an insolvency or arrangement proceeding.

Poland to adjust its law to minimum wage directive

↓ The government has announced that it will fully implement the European minimum wage directive. However, no date for this has been given. Member states have two years to implement the directive adopted in October 2022. It does not set a specific figure for the minimum wage that member states would have to provide, but it states that the minimum wage should constitute from 50 to 60 percent of the average national wage. The directive applies to those who work in the EU under an employment contract, or are in an employment relationship defined by law, collective agreements or custom and practice.

New KSeF bill published by the Ministry of Finance

↓ The requirement for VAT taxable persons to issue e-invoices will be introduced six months later than initially announced, i.e., as of 1 July 2024. In addition, the new

version of the KSeF (Domestic e-invoice System) bill contains several significant changes, including less severe penalties for breaching the e-invoice regulations. What is more, in the first six months of mandatory e-invoicing there are to be no such penalties at all. Mandatory e-invoicing will generally cover activities that must currently be documented with an invoice issued in accordance with the VAT Act. These are activities that are subject to taxation with VAT in Poland, including domestic supplies of goods and services between business entities (B2B) and to government organs (B2G). [More on this in our tax alert.](#)

CIT returns due by end of June

↓ Please remember that 30 June 2023 will be the final deadline for the filing of declarations on the amount of income earned or loss incurred in the tax year ended between 1 December 2022 and 28 February 2023 (CIT-8, CIT-AB). Those taxable with flat-rate tax on corporate income (so-called Estonian CIT) get an extension of the deadline to file CIT-8E – declaration on the amount of income earned and flat-rate tax due. Where as the deadlines for the preparation of financial statements will not be extended. [More on this on our website.](#)

Important interpretations and rulings

Intra-group expenses may be deducted under research and development relief

➡ The expenses incurred by tax group members for research and development activities performed by other group members can reduce taxable income. The provisions of the CIT Act do not forbid deducting intra-group expenses under R+D relief. All that matters is whether the given expense can be considered an eligible cost. This is to be determined from the point of view of the entity that generates it – indicates a ruling issued by the Supreme Administrative Court on 14 March 2023 (case II FSK 2117/20). The tax authorities were of the opinion that only the costs of transactions performed by specific companies with third parties can constitute eligible costs under R+D relief.

Family 4+ relief includes children from a previous marriage

➡ A taxable person who has four children from the current and previous marriage can claim the new 4+ relief under PIT. It is, however, necessary for him to exercise parental authority over each of those children. The relief may even be claimed when a court has limited the exercise of parental authority over one of the children – according to an individual interpretation issued by a National Tax Information on 9 March 2023 (number 0113-KDIPT2-2.4011.1050.2022.2.MK). 4+ relief is a solution that may be claimed for the first time in the 2022 PIT return. It allows for an exemption of up to PLN 85 528 in income for each of the parents or legal guardians.

Income from purchase made with points only when they are used

➡ According to a ruling issued by the Supreme Administrative Court on 14 March 2023 (number II FSK 2116/20), an employer that creates a motivational cafeteria program must follow the purchases made by employees and deduct PIT

advances only from the value of the purchased goods. The mere fact of awarding points to an employee or associate to exchange them for goods or services does not yet give rise to income. According to the court, during the course of employment, the points awarded by the employer cannot be exchanged for cash, so it cannot be assumed that income arises the moment a point is awarded, as the recipient is not yet free to dispose of the benefit. In practice this means the need to rely on data from the partner that manages the points program.

VAT sanction applies only if taxable person intended to commit tax fraud

➡ An ordinary omission does not authorize officials to instrumentally impose a VAT sanction. The taxable person must clearly aim to commit tax fraud and reduce the amounts due to the state – states a ruling issued on 24 February 2023 by the Voivodship Administrative Court in Białystok (case file I SA/Bk 1/23). It refers to Article 112b of the VAT Act and the ability to impose a fine in the form of a so-called VAT sanction, i.e. an additional tax liability. In accordance with binding regulations, in cases of, for example, an understatement of tax liability, overstatement of a tax refund, or failure to file a return and pay the tax due, a sanction equal to 30 percent of the value of the inaccuracy may be imposed. Where a voluntary correction is made by the taxable person, the sanction may be reduced to 20 or 15 percent. Fraud is subject to a sanction equal to 100 percent.

No tax or premiums on remote work allowance

➡ 7 April 2023 was the effective date of new regulations on remote work. The allowances paid out by employers are not income, employees do not have to pay taxes or insurance premiums on them. Under the new regulations, employers are required to, among others, cover the costs of electrical energy and telecommunications services necessary to perform remote work; cover other costs directly associated with remote work, if the reimbursement of such costs was agreed in the relevant agreement, regulations or mandate.

CALENDAR (most important deadlines)

- ✓ Payment of VAT for March 2023
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for February 2023
- ✓ Transmission of SAF_V7M for March 2023
- ✓ Transmission of SAF_V7K for March 2023 (record and declaration section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for March 2023
- ✓ Filing by tax representative of VAT-13 for March 2023
- ✓ Reporting of sugar tax for March 2023
- ✓ Reporting of retail sales tax PSD-1 for March 2023
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for March 2023



CALENDAR



- ✓ Filing by natural persons of return for 2022 (PIT-28, PIT-36, PIT-36L, PIT-37, PIT-38, PIT-39) and payment of the resulting amount due
- ✓ Filing by companies in succession of return for 2022 (PIT-28S, PIT-36S, PIT-36LS) and payment of the resulting amount due
- ✓ Submission of information on tax-deductible costs incurred for robotization in 2022 (PIT-RB and PIT-RBS)
- ✓ Submission of information on tax-deductible costs incurred to support sports, culture, higher education and science in 2022 (PIT-CSR and PIT-CSRS)
- ✓ Filing of PIT-DZ by taxable person who in 2022 claimed family 4+ relief
- ✓ Payment of lump-sum tax on foreign income by a natural person who in 2022 moved his/her place of residence to the territory of Poland and is subject to unlimited taxation and has chosen lump-sum taxation
- ✓ Electronic transmission to the Head of National Tax Administration of the financial statements for 2022 (prepared in a logical structure) by a PIT taxable person who keeps books of account
- ✓ Submission to the tax office by natural persons of a declaration on the amount of solidarity tax for 2022 (DSF-1) and payment of the resulting amount due



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



- ✓ Filing of INTRASTAT for April 2023



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



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CALENDAR



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