

BS&O ALERT



Information

Contributions to company social benefits funds by end of May

In accordance with the Company Social Benefits Fund Act of 4 March 1994, contributions to the company social benefits fund are to be transferred to the relevant bank account by 30 September. Nevertheless, at least 75% of the value of the contribution must be transferred as early as 31 May.

In accordance with the Company Social Benefits Fund (ZFSS) Act, the employers listed therein are required to transfer to the fund's separate bank account the value of the contribution determined for the given year by the specified deadline.

The first installment of the ZFSS contribution is to be transferred by the 31st of May of each year, at an amount equal to at least 75% of the annual contribution. Whereas the remainder of the contribution must be transferred by 30 September. These deadlines do not apply to funds formed by a company voluntarily, but only to those employers who are by law required to form a ZFSS.

In accordance with binding regulations, three groups of traders are required to form company social benefit funds. Firstly it is those traders who as at 1 January of the given year employed at least 50 full time employees. Se-

condly those who as at 1 January of the year employed at least 20 and no more than 50 full time employees (this group of employers forms a fund at the request of the company trade union organization). And thirdly, state and local government entities which, importantly, are required to form a fund no matter the number of employees.

Employers who as at 1 January had fewer than 50 full time employees (excluding state and local government entities) may: form a fund up to the amount and in accordance with the rules specified in the act, or pay a holiday allowance. In cases where the fund is formed because of reaching a certain number of employees, the requirement to form the fund is based on the number of employees as at 1 January of the given year.

The amount of the ZFSS contribution is based on the planned number of employees in the given year. That number is adjusted to reflect the actual number of employees at the end of the year. Amounts not used by the end of the calendar year are rolled over to the next year. The fund is administered by the employer. As of 1 January 2023, contributions are to be calculated based on the average monthly salary in the national economy in the second half of 2019 as announced by the President of the Main Statistical Office, i.e. PLN 4434,58. Until the end of 2021 it had been the average monthly salary in the national economy from the second half of 2018, in the amount of PLN 4134,02.

Basic contribution amounts to 37,5% per employee, but in some cases contributions are made at different amounts. And so, the amount of the basic contribution per a juvenile worker amounts to: 5% in the first year of study; 6% in the second year of study; 7% in the third year of study. Whereas the basic contribution per employee who performs work in special conditions or of a special nature as

defined in regulations on bridging pensions amounts to 50%. Employers who transfer 75% of the annual basic contribution to a separate ZFSS account can claim that amount as a tax-deductible cost. But there is an important condition: contributions to ZFSS may be charged to tax-deductible costs only when the money is actually transferred to the fund's separate bank account.



New ZUS DRA and ZUS RCA forms

Some of those who conduct non-agricultural business activities have until 22 May 2023 to file health insurance premium returns for 2022. To do this they will have to file modified ZUS DRA or ZUS RCA forms for April 2023. ZUS has already published those forms. On 28 April ZUS published the documents needed to file the 2022 health insurance returns. Those returns are to be filed in the declaration for April 2023, i.e. ZUS DRA – filed by sole traders, and ZUS RCA – filed by those who pay premiums for themselves and others (e.g. employees, contractors). The appropriate forms containing the annual health insurance

return for 2022 must be submitted to ZUS by 22 May 2023 (we discussed this in the previous issue of our alert).

ZUS DRA and ZUS RCA have been modified in sections that relate to annual health insurance premiums. On ZUS DRA this is section XII, whereas on ZUS RCA section III.F.

With respect to the tax scale, a field has also been added on the amount of tax due for the reporting year. The field is to only be completed by those with a significant or moderate degree of disability, who have had their premiums reduced to the amount of the tax advance for each month.



Fields have also been added with information on changes in the form of taxation based on special regulations, i.e. as of 1 January or 1 July 2022.

Traders use the forms to report data for the calculation of annual premiums separately for each form of taxation (tax scale, flat-rate, lump-sum on registered income).

Annual health insurance premiums are calculated based on the revenue/income generated in a given year. As a result, the amount of the premium may be different for those taxed on the tax scale, with flat-rate tax and with lump-sum tax on registered income.

To correctly complete forms ZUS DRA and ZUS RCA it is necessary to take into account the new rules for the calculation of the annual health insurance premium limit, as well as the

new sections on the annual reporting of health insurance premiums.

The new versions of the forms may be completed and filed electronically using Płatnik or ePłatnik on ZUS's electronic services platform PUE ZUS. Paper versions are available at ZUS offices. They may be used by remitters who file only for themselves or who have submitted no more than 5 insureds – if not filing electronically.

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.



Mandatory e-invoicing as of 1 July 2024

Active VAT taxable persons will be covered by the requirement to document sales in KSeF as of 1 July 2024, whereas those who get a VAT exemption will have until 1 January 2025.

On 9 May 2023 the government adopted the Domestic e-invoice System (KSeF) bill, which has now been sent to the Sejm.

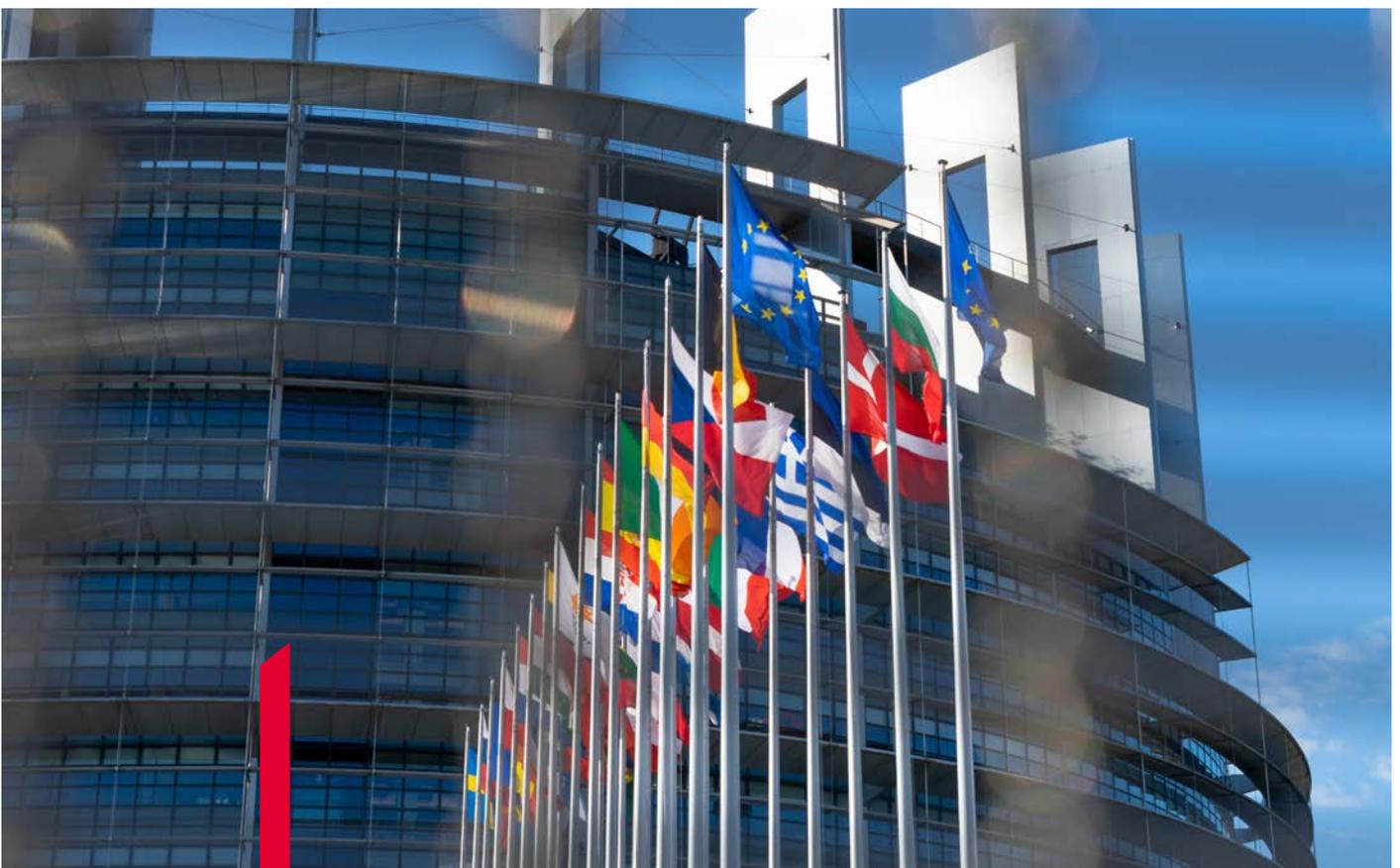
With the requirement to issue e-invoices through KSeF traders will have to prepare to properly document sales using the system. Traders will be able to issue invoices: directly in KSeF using the Taxpayer Application, or in an online invoicing/accounting program that offers KSeF integration.

Mandatory e-invoicing will 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). They will not include invoices issued to individuals (B2C, or so-called consumer invoices).

The requirement to issue structured invoices will apply to taxable persons performing activities covered by the invoicing requirement under Polish VAT regulations, who have their place of business establishment or fixed place of business in Poland (when this fixed place of business participates in the supply of goods or services).

The requirement to e-invoice will not cover those taxable persons who have no place of business establishment or fixed place of business in the territory of Poland, and those who only have a fixed place of business and do not participate in the transaction. For such entities, e-invoicing will be an option.

The bill also provides for the introduction of exclusively electronic handling of binding information – WIT (binding tariff information), WIP (binding origin information), WIA (binding excise tax information) and WIS (binding rate information) – by expanding and adapting the existing KAS information systems (e-Tax Office, the PUESC Tax and Customs Electronic Services Platform).



In short:

Changes in employee documentation regulations in effect as of 17 May

↓ The decree of the minister of family and social policy of 9 May 2023, amending the decree on employee documentation, has been published in the Journal of Laws (item 879) and became effective on 17 May 2023. Following the changes, section B of the employee personnel file will also include: the employee's request and employer's response to change the type of employment

contract to an employment contract for an indefinite time or to more predictable and secure work terms, also by making a change in the type of work or to full time employment; the employee's request and the employer's response to provide the reasons for terminating a probationary employment contract with notice or exercising actions with an effect equivalent to terminating the employment contract; documents on the application of flexible working arrangements.

SLIM VAT 3 adopted by the Senate

↓ On Thursday, 11 May 2023 the Senate adopted amendments to the Value Added Tax Act and to certain other acts (the so-called Slim VAT 3). The objective of the amendments is to simplify and speed up VAT reporting by, among others, raising the small taxable person sales limit from 1,2 to 2 million euro. They will also raise – from the current PLN 500 to PLN 10 thousand – 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. The bill will now be sent to the president, who has 21 days to sign it. The new regulations are to go into effect as of 1 July 2023.

As of 1 June higher earning limits for pension and disability recipients

↓ From 1 June to 31 August 2023, income corresponding to: 70 percent of the average monthly salary announced for the first quarter of 2023 amounts to PLN 4987 (income in excess of this amount decreases the retirement/disability benefit), whereas 130 percent of the average monthly salary for the 1st quarter of 2023 amounts to PLN 9261,60 (income in excess of this amount will result in a suspension of retirement/disability benefits). From 1 March to 31 May 2023, income corresponding to: 70 percent of the average monthly salary for the fourth quarter of 2022 amounts to PLN 4713,50, and to 130 percent of the average monthly salary for the fourth quarter of 2022 amounts to PLN 8753,60.

Another minimum wage jump in 2024

↓ All indications are that in 2024 employers can expect another sharp rise in the costs of employing those who earn the minimum wage. This will not only be caused by persistently high inflation, but also by the announced implementation of the minimum wage directive. The government's assumptions for the multiyear state finances plan indicate that the average rate of inflation for 2023 will reach 12%. This means that even now it is fair to assume that in 2024 the minimum wage may go up to as much as PLN 4250 or 4350, depending on the variant, i.e. by PLN 650 to 750.

ORD-U for 2022 not due until November

↓ Until now the deadline for the filing of information on agreements concluded with non-residents (ORD-U) coincided as the deadline for the filing of annual CIT returns. According to the minister's of finance decree published in March 2023 (Journal of Laws item 422), the deadline for the filing of information on agreements concluded with non-residents (ORD-U) has been aligned with the deadline for the filing of transfer pricing information (TPR-C), i.e. 11 months from the end of the tax year. This means that taxable persons whose tax year is concurrent with the calendar year should file

their ORD-U by the end of November 2023.

Financial industry with new reporting obligations as of 2024

↓ The Ministry of Finance has published a draft of a new decree on investment fund reporting. The new regulations are to increase the efficiency of oversight and limit the scope of reported data. In addition to extending currently binding reporting obligations onto investment funds in liquidation, the draft provides for significant changes that will, among others, make it possible to limit the scope of reported data, consolidate reporting standards, and optimize the type of information and the frequency of reporting. The new decree is to go into effect as of 1 January 2024.

EU wants to introduce a carbon border tax as of 2026

↓ The European Parliament has decided to adopt regulations on the Carbon Border Adjustment Mechanism (CBAM). The instrument will be introduced gradually (in the years 2026-2034), along with the phase-out of the allocation of free allowances under the ETS. The new tax will cover such goods as iron, steel, cement, aluminum, fertilizers, electricity and hydrogen. Importers of these goods will have to pay the

difference between the emission fee in the country of production and the price of emission allowances in the EU ETS.

New version of Płatnik requires database conversion

↓ After the installation of updates (from metric 265), the use of Płatnik requires a conversion of the databases where insurance documents are stored – says the Social Insurance Office. As a result of the database conversion, new sections will be added to all the ZUS DRA and ZUS RCA documents, which in turn will translate into the size of the databases. According to the administrator's documentation, MS Access type databases have technical limitations and should be used as recommended: - for single-

-station applications (one computer, one user); - for single remitter applications; - for a specific number of insureds (up to 1000 insureds).

Consolidated text of decree on PIT on unrealized profits

↓ The minister's of finance decree on extending the deadline for the payment of output tax on income from unrealized profits by PIT taxable persons was published in the Journal of Laws on 12 May 2023 (item 209). The decree extends the deadline for making such payments to the 7th day of the month following the month in which the taxable person lost all or part of the asset subject to the tax – where the loss of all or part of the asset occurred prior to 1 December 2023,

and up until 31 December 2023 – in other cases.

New amount of bonus and reimbursement of travel costs when hiring unemployed

↓ The minister's of family and social policy announcement of 4 May 2023 on the amount of the bonuses and travel costs has been published in the Polish Monitor (item 495). In accordance with the announcement, as of 1 June 2023 the amount of the bonus paid by the starost to an employer who hires an unemployed person for a declared period of 6 months is PLN 1995,10. The same regulations provide that the maximum travel allowance amounts to PLN 798,30, and the maximum monthly payment – to PLN 133,40. The allowance is financed by the starost as part of the internship voucher.



Important interpretations and rulings

Mortgage currency translation costs may be deducted from income

➔ The costs of currency translation of indexed mortgages as a result of court rulings should be considered deductible for corporate income tax purposes – not when a relevant provision or accrual is formed, but at the time they are actually incurred. This is the position presented in an individual interpretation issued on 17 March 2023 by a National Tax Information director (number 0114-KDIP2-2.4010.44.2023.1.SP).

Partnership limited by shares to deduct general partnership's CIT after transformation

➔ In a ruling issued on 4 April 2023 (case file III SA/Wa 2590/22), the Voivodship Administrative Court in Warsaw found that where in the course of the year a general partnership is transformed into a limited partnership or partnership limited by shares, it is eligible to deduct the CIT corresponding to the period during which it had operated as a general partnership. The court found that in this case the books of account were not closed as the general partnership was transformed into a limited partnership. It is undisputed that PIT is a tax accounted for at the end of the year. For this reason, when facing the obligation to pay the tax, the individuals would already be general partners. The court also pointed out that the entire profit that is under the partnership agreement attributable to the general partners is their profit and also materializes with the end of the tax year.

Relief deductible on the condition of having a disability certificate

➔ Rehabilitation expenses may be deducted on the condition that the person for whom the given expense was incurred: holds a certificate of one of the three degrees of disability, as specified in separate regulations, issued by the relevant evaluating body, or a decision granting a pension on account of a full or partial incapacity to work, a training or social benefit, or a certificate of disability of a person under the age of 16, issued based on separate regulations. Subject to deduction are expenses incurred from the date of the disability certificate, unless the certificate specifies a disability date earlier than the date of the certificate. In such situations, the taxable person may deduct expenses incurred after the date listed in the certificate as the disability determination date – states an interpretation issued by a National Tax Information director on 3 April 2023 (number 0111-KDSB2-1.4011.58.2023.2.AM).

Minister of finance confirms that overdue ZUS premiums are not income

➔ Based on consistent administrative court rulings, the minister of finance has issued a general interpretation (number DD3.8203.1.2023, dated 30 March 2023) explaining that the payment of overdue ZUS and health insurance premiums by a remitter does not give rise to taxable income for the taxable persons. This is why premium remitters who pay overdue ZUS and health insurance premiums with their own funds do not make any financial contribution to the insured, which means that they do not have to include those amounts in their income tax returns and have no PIT remitter or reporting obligations.

CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for April 2023 - other premium remitters
- ✓ Payment of health insurance premium resulting from annual return for 2022
- ✓ Payment for April 2023 of monthly advance for personal income tax and corporate income tax
- ✓ Payment for April 2023 of advances collected on employment income
- ✓ Payment for April 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 April 2023
- ✓ Payment of lump-sum tax if in April 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 April 2023 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for April 2023 of income tax on income from a fixed asset that is a building
- ✓ Payment for April 2023 to PFRON
- ✓ Payment of lump-sum tax on income from: hidden profits and non-business expenses - if in April 2023 there was a withdrawal, expense or benefit; change in the value of an asset - if an acquisition, transformation or contribution in kind was made in April 2023



CALENDAR



MAY 2023						
1	2	3	4	5	6	7
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- ✓ Payment of VAT for April 2023
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for April 2023
- ✓ Transmission of SAF_V7M for April 2023
- ✓ Transmission of SAF_V7K for April 2023 (record section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for April 2023
- ✓ Filing by tax representative of VAT-13 for April 2023
- ✓ Reporting of sugar tax for April 2023
- ✓ Reporting of retail sales tax PSD-1 for April 2023
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for March 2023



- ✓ Submission to ZUS of information on the amount of income from gainful employment in the period from 1 March 2022 to 28 February 2023 by those who collect pre-retirement benefits
- ✓ Filing of VAT declaration relating to import procedure VII-DO for April 2023
- ✓ Submission to PFRON by disabled traders of an application for a refund of retirement and disability insurance premiums paid for March 2023
- ✓ Payment of at least 75% of the basic contribution to the ZFSS separate bank account by employers required to form ZFSS



- ✓ Submission of request for a refund of overpaid health insurance premium resulting from annual return for 2022



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



✓ Filing of INTRASTAT for May 2023



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



CALENDAR

JUNE 2023						
1	2	3	4	5	6	7
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0 BDO

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