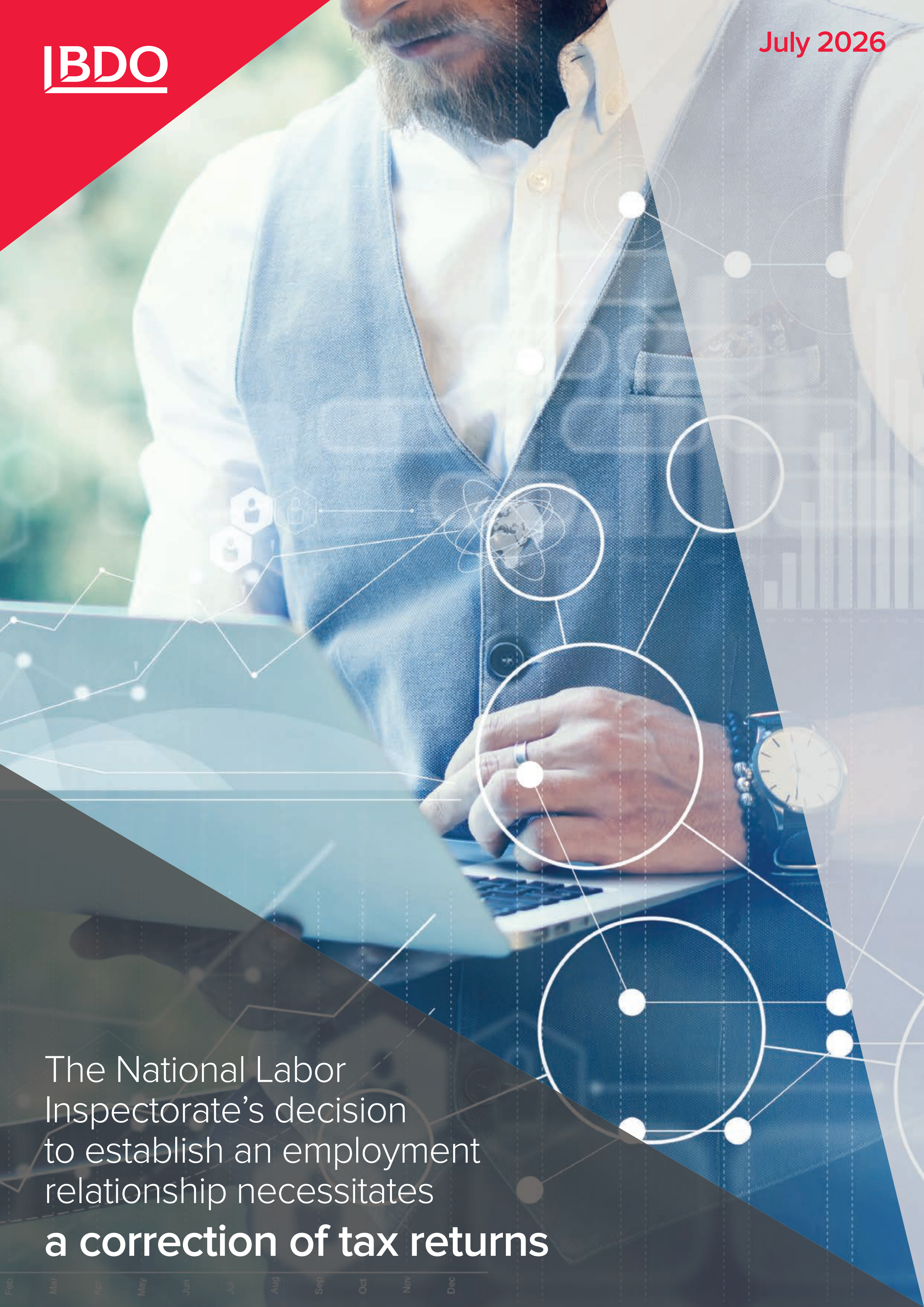
July 2026



The National Labor Inspectorate's decision to establish an employment relationship necessitates **a correction of tax returns**

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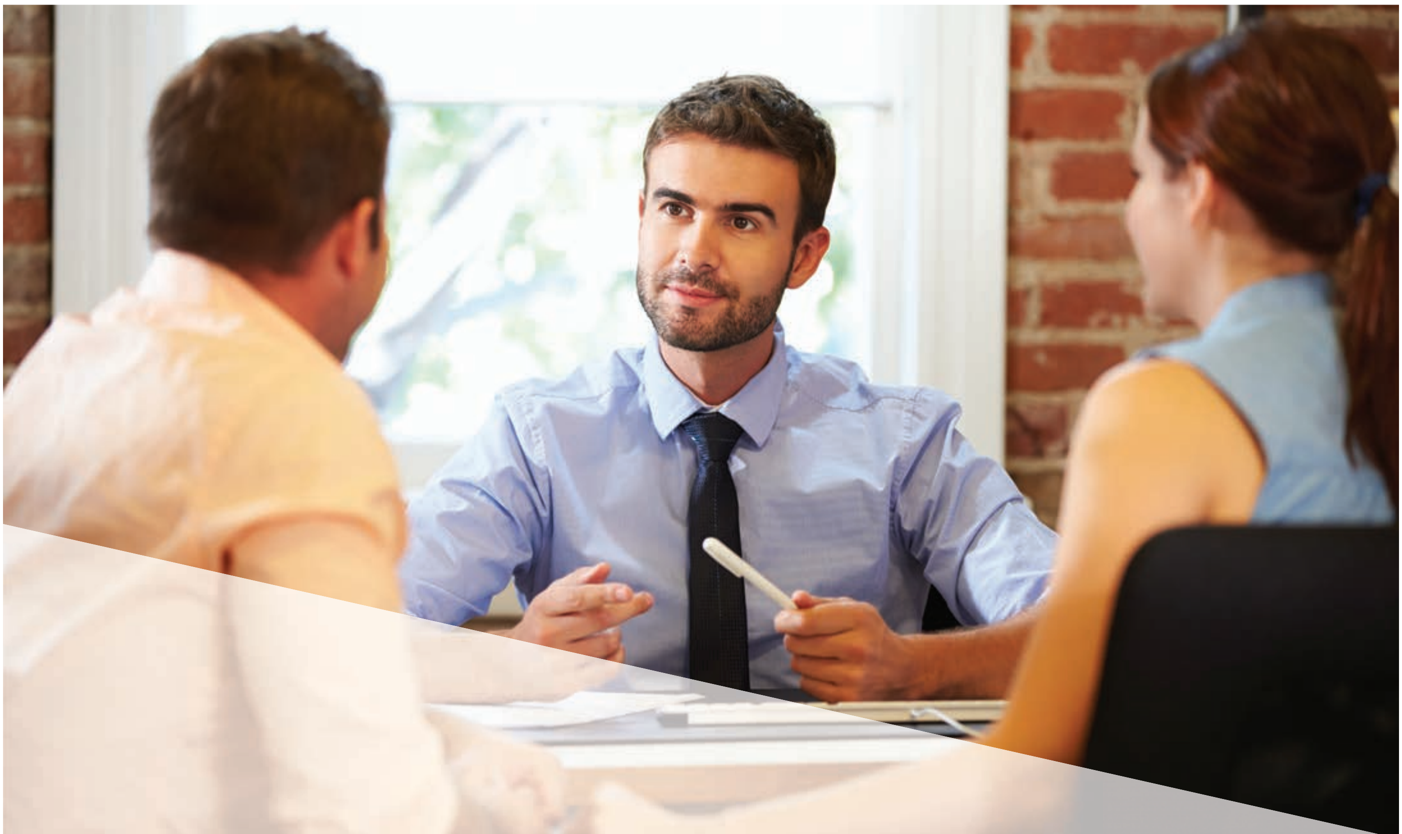
In an announcement made on 6 July 2026 the Ministry of Finance explained that a decision by the National Labor Inspectorate (PIP) establishing the existence of an employment relationship requires the affected person to correct their personal income tax returns for the entire period covered by the decision. The announcement covers only the tax consequences, but the full list of risks for companies that use the B2B formula also includes premium arrears to the Social Insurance Office, penalties under the Labor Code and criminal tax liability.

Legal basis for and nature of the changes

The Ministry of Finance has stated that the new provisions of the National Labor Inspectorate Act (the PIP Act) (amendments of 11 March 2026, Journal of Laws item 473) change only the procedure used to determine the existence of an employment relationship and do not modify the rules of taxation with personal income tax (PIT). A decision made by PIP has legal consequences as of the date it is issued, and the decision's issue date is also the date of employment contract conclusion. From that date onwards the affected person's source of income is an employment relationship rather than a non-agricultural business activity or contractual employment (service and specific work contracts). The new solution went into effect on 8 July 2026 and is a significant change from the previous model under which the existence of an employment relationship could only be determined by a labor court.

Requirement to correct PIT returns

As explained by the Ministry of Finance, a taxable person affected by a PIP decision is required to correct their PIT returns for the entire period covered by the decision. The correction is to encompass all the tax returns filed by the taxable person during the period when - according to PIP's decision – their relationship with their employer was that of employment rather than a civil law or B2B contract. If a verification shows an overpayment in one category and an underpayment in another, the overpayment is automatically applied toward the underpayment, along with late charges. Liability for unpaid taxes generally rests with the tax remitter, i.e. the employer who under the Tax Ordinance is liable for any tax that was not collected or was collected but not remitted. The taxable person is not liable for the tax remitter's understatement or non-disclosure of the tax base up to the amount of the advance the tax remitter is required to collect.



VAT consequences

PIP's determination that collaboration under a B2B contract constituted an employment relationship will also have value added tax related consequences. In accordance with the provisions of the VAT Act, activities that result in revenue classified as employment income are not considered self-employment. As a result, the recipient of the invoices (previously the client) loses the right to deduct input tax from invoices issued by the collaborator, as these invoices document activities that do not constitute self-employment. Interest will be charged on any tax arrears, and the tax authority may impose a 100% VAT penalty for so-called "empty invoices" (invoices that do not reflect actual economic events). VAT returns will need to be verified and corrective invoices issued by both the issuer and the recipient.

ZUS consequences

The Ministry's announcement of 6 July 2026 does not address consequences under ZUS as social insurance is outside the authority of the minister of finance. In accordance with the Social Insurance System Act, ZUS may collect overdue premiums for up to 5 years back, irrespectively of the fact that PIP's decision formally takes effect on the date it is issued. An employer acting as the premium remitter is liable for the full amount of overdue social insurance, health insurance, the Labor Fund (FP), and the Guaranteed Employee Benefits Fund (FGŚP), including employer surcharges above gross wages. In accordance with the established case law of the Supreme Court (such as the ruling of 26 September 2018, II PK 151/17), the employer must also cover those portions of the premiums that would ordinarily be financed by the employee, since the wages have already been paid without any deductions. In addition, ZUS may impose a surcharge of up to 100% of the unpaid premiums and late interest charges starting from the day following the statutory payment deadline.

Labor Code penalties

The 11 March 2026 amendments to the PIP Act have significantly raised the maximum penalties for violations of employee rights, including for the conclusion of civil law contracts in circumstances where an employment contract should have been concluded in accordance with Article 22 § 1 of the Labor Code. The maximum fine has increased from the previous PLN 30 000 to PLN 60 000, and a labor inspector may impose a fine of up to PLN 90 000 for repeat offenses. A fine may be imposed separately for each violation, which means that in cases of many collaborators covered by disputed contracts the fines may accumulate to considerable amounts. At the same time, the lawmakers have provided for a 12-month transition period (abolition of offenses) from 8 July 2026 to 8 July 2027, during which companies that voluntarily convert civil law contracts into employment contracts will avoid liability for offenses under the Labor Code.

Criminal tax liability

Criminal tax liability for each case of issuing invoices that do not reflect actual economic events and for irregularities in tax returns will depend on the factual circumstances, in particular on whether the action was intentional. The Ministry of Finance has stressed that PIP's decision establishing the existence of an employment relationship does not in itself automatically give rise to criminal tax liability. The list of potential charges includes issuing so-called "empty invoices" (Article 62 of the Criminal Tax Code - KKS), errors in tax returns (KKS Article 56), late payments and tax arrears. Criminal tax liability may apply to both the issuer and the recipient of invoices, as well as to company managers responsible for the accuracy of tax accounts. Penalties include fines, restriction of liberty and, in extreme cases, imprisonment.

Preliminary issue and binding nature of PIP decisions

The Ministry of Finance has confirmed that PIP's final decision regarding the existence of an employment relationship, as well as a final court judgement constitute a resolution of a preliminary issue that is binding on the tax authorities when tax matters are resolved. The legal basis for this is Article 201 §1aa of the Tax Ordinance, which went into effect on 8 July 2026. This means that the tax authority conducting a proceeding regarding a tax liability related to a disputed form of collaboration will not be able to independently assess the nature of the relationship between the taxable person and the tax remitter. The tax authority will have to suspend the proceeding until a final decision is issued by PIP or final judgment made by a court. A decision by PIP or a court will automatically lead to tax consequ-

ences in the form of an obligation to correct tax returns and will trigger independent action by the Social Insurance Office regarding overdue premiums.

Sharing of information between PIP, ZUS and KAS

The amendments to the PIP Act introduce an ICT system that integrates data from the National Labor Inspectorate, the Social Insurance Office and the National Tax Administration (KAS). A risk analysis algorithm identifies companies with anomalies, such as sole proprietorships (JDG) with a single payer, mass conversions of full-time positions to B2B contracts at a single department, cascading structures (former employee forms a JDG and returns as a contractor), as well as regular fixed salaries without an element of business risk. PIP gains free access to ZUS data and information about any identified irregularities is automatically forwarded to pension and tax authorities. This means that within a short time PIP's decision can trigger an avalanche of proceedings by ZUS and tax offices, conducted independently and in parallel. Companies should assume that a reclassification of a contract by PIP will not close the matter at labor law level, but will become the start of a broader process of account verification.

Recommendations for businesses

Businesses that collaborate with individuals based on B2B contracts should immediately conduct an audit of such contracts to assess the risk of reclassification by PIP, considering such criteria as company subordination, performance of work at a designated place and time, absence of real organizational independence and absence of actual economic risk for the contractor. We advise taking advantage of the 12-month abolition of offenses that lasts until 8 July 2027 and voluntarily converting questionable contracts into employment contracts. This approach eliminates the risk of penalties under the Labor Code, though it does not protect against independent actions by ZUS and KAS regarding overdue premiums and taxes. It is also worth considering applying for an individual interpretation from the Chief Labor Inspector (for a fee of PLN 40), which would provide protection against penalties, as long as the described state of affairs is consistent with reality. Once a decision from PIP is received both parties should immediately verify their tax and premium accounts for the entire period covered by the decision and consider utilizing the so-called active regret to limit the risk of criminal tax liability.

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