



Information

ZUS reminds businesses of important declaration correction deadlines

New deadlines for the filing of corrected declarations (ZUS DRA, ZUS RCA, ZUS RSA) have been in effect since 2022 – prompted ZUS. 1 January 2024 is the deadline by which remitters can file corrected declarations for periods from January 1999 to December 2021.

Under binding regulations, premium remitters can file corrected declarations by the following deadlines:

- for periods from January 1999 to December 2021 – by 1 January 2024,
- for periods beginning in January 2022 – 5 years from the deadline for the payment of premiums for the given calendar month.

Once these deadlines expire, corrections can only be made ex officio by ZUS and only on the insured's account. ZUS will make such corrections based on a final court ruling or decision. The corrections will not result in any changes in accounts with the premium remitter.

For this reason, each premium remitter should verify their ZUS filings for periods from January 1999 to December 2021. Corrections of these documents will only be possible until 1 January 2024.

Corrections of data submitted in filings made for January 2022 and the following months can be made for 5 years from the premium payment due date for the given calendar month.

To correct a social insurance (ZUS) declaration you must first identify the error in the documents. The error may relate to various aspects, such as personal data, premium remitter information, premium amount, etc. The next step is to complete an appropriate form and file it with ZUS. ZUS will then perform a verification and make a correction. You should await confirmation of the correction from ZUS. Once confirmation is received you should check to make that the correction was made as requested.



Where an employee works half-time, the fifth hour is already overtime

The Court of Justice of the European Union (CJEU) has found that an employer cannot pay overtime to half-time workers the same way as to full-time workers, i.e. only after they have worked for eight hours. In its judgement of 19 October 2023 in case number C-660/20, the Court of Justice of the European Union (CJEU) gives workers employed on a so-called part-time basis, i.e. where working hours do not exceed 8 hours per day, the potential to claim remuneration for overtime work, i.e. work in excess of the working hours arising out of their part-time employment.

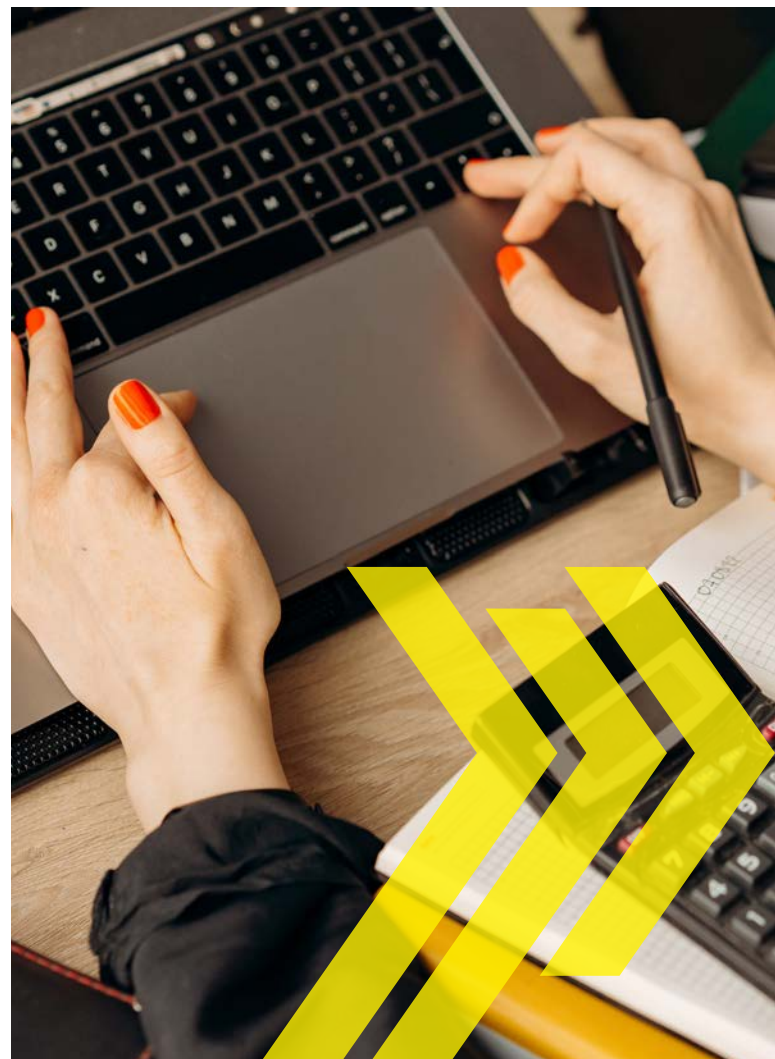
The Court found that national regulations that make the payment of additional remuneration contingent on exceeding the same number of working hours (uniform threshold) constitute less favorable treatment of part-time workers. Such discrimination is unacceptable.

Whereas such discrimination takes place in Poland. Article 151 §5 of the Labor Code states that an employment contract should specify the threshold above which a part-time employee is entitled to overtime pay. It does not, however, mandate that this be a number of working hours arising out of part-time employment. A situation is therefore possible where the overtime hours of a worker employed on a half-time basis, i.e. working four hours a day, will be counted not from the fifth, but from, for example, the sixth or seventh hour of work. Moreover, some employers do not specify this threshold in employment contracts, which leads to situations where employees become eligible for additional pay only after working the number of hours corresponding to full time employment. For example, a worker employed on a half-time basis in a basic working time system receives additional pay only after the eighth hour of work.

As a result of the CJEU ruling, part-time employees can now file claims against their employers for the payment of past due (going back three years) and current additional pay for overtime work. Based on the CJEU ruling,

Polish employees could claim such additional pay already after the first hour worked in excess of his/her working time, if the employer has not regulated this matter in the employment contract. Employers should now verify their contractual terms and adapt their remuneration rules in such a way that labor courts do not find unequal treatment of workers employed on a part-time basis.

In accordance with binding regulations, each hour of overtime work entitles employees to remuneration equal to their regular pay and additional pay: of 50% of their pay for each hour of overtime work on a weekday and 100% of their pay for overtime work on non-working days and holidays. Employees can also be offered time off in lieu of overtime pay.



Employers with new obligations as of 17 November

Employers must now reimburse not only the cost of new corrective eyeglasses, but also of contact lenses for employees who have to use them. Whereas employees who work on laptop computers can ask for a desktop monitor or laptop stand.

These are changes resulting from the Minister's of Family and Social Policy decree of 18 November 2023 amending the Decree on occupational health and safety for workstations equipped with screen monitors (2023 Journal of Laws, item 2367).

As of 17 November, the regulations cover the cost of corrective eyeglasses and contact lenses, as well as a desktop monitor, laptop stands, additional mouse, keyboard and footrest for employees who spend at least half of their daily working time in front of a computer. Importantly, remote workers are also covered by these regulations.

A significant novelty compared to previously binding regulations is the introduction of reimbursements for contact lenses and the requirement to provide an additional monitor or laptop stand to employees who work on laptops. The regulations provide that in order to be reimbursed for the cost of contact lenses or eyeglasses, an employee must present a purchase invoice and a doctor's note about the need to use corrective eyeglasses or contact lenses. This applies to employees who spend a minimum of 4 hours per day in front of a screen monitor. The amount of the reimbursement is not strictly regulated and is usually stated in the internal regulations of the employer.

Under the new regulations, employees who use laptops can choose between an additional desktop monitor and a laptop stand. These items, along with the required additional keyboard and mouse, remain the property of the employer who selects them. The purpose of a laptop stand is to ensure ergonomic positioning of the screen. It should make it possible



to position the laptop screen in such a way that its upper edge is at eye level. For workstations equipped with screen monitor, created prior to 17 November 2023, employers will have 6 months to make them compliant with the occupational health and safety and ergonomics requirements arising out of the amended decree. New workstations created on 17 November and beyond must meet the requirements at the time of being created.

In short

Changes will be made in CIT forms for 2023

↓ The Ministry of Finance has published and submitted for consultations two new tax form templates: CIT-8AB(8) – declaration on the amount of income earned (loss incurred) by a tax group and corporate income tax due, as well as CIT/PD(2) – information on the amount of shifted profits and income tax due on shifted profits (which constitutes an appendix to declarations CIT-8 and CIT-8AB).

As of January more payments to micro tax accounts and new payment title descriptions

↓ 1 January 2024 is the planned effective date of a new Minister of Finance Decree on

the types of taxes, fees or non-tax public payments paid via micro tax accounts. The catalog of such payments will be broadened to include new payments, such as those arising out of forms CIT-8FR, PIT-PZ, VAT-14, POG-4, POG-5, POG-P and GHD-1. The decree also provides for the addition of new form symbols/payment titles for two new payments as part of value added tax – JPK_V7M and JPK_V7K. It will also update the descriptions of certain other payments.

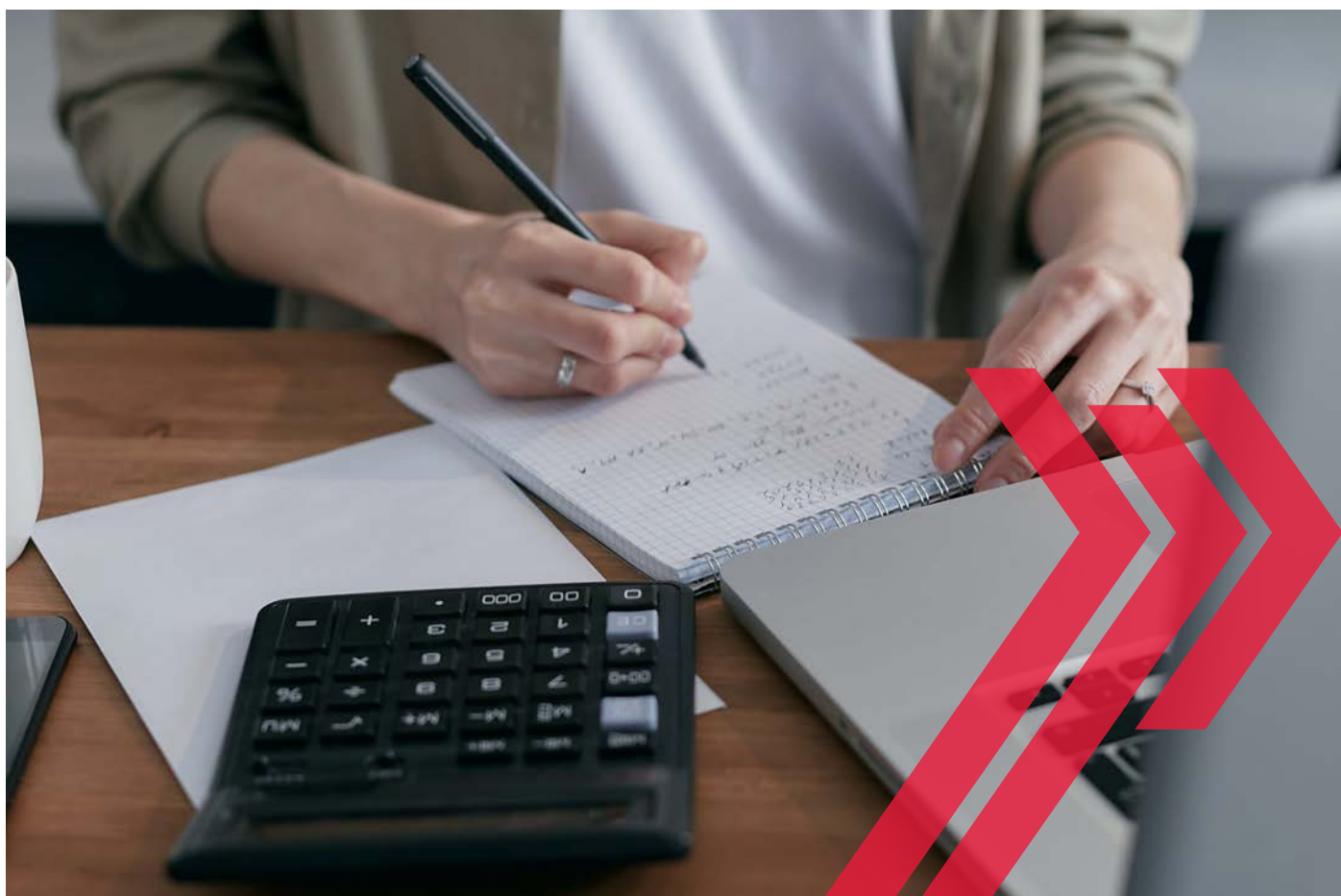
Nursing allowance to increase significantly in 2024

↓ Published in Polish Monitor of 15 November 2023 (item 1224) was the Minister's of Family and Social Policy announcement on the amount of the nursing allowance in 2024,

which indicates that in 2024 the allowance will amount to PLN 2988 (an increase of PLN 530). To recap, the nursing allowance is a form of financial support for those who take care of sick or disabled family members. In 2023 the allowance amounts to PLN 2458 per month.

Creator of applications for individual interpretation made available by tax authorities

↓ The National Tax Administration has made available a creator of applications for the issue of individual tax interpretations. The interactive form will make it possible to generate and fill out an application. Taxable persons will, however, have to present their own interpretation of the regulations by themselves. The purpose of the creator is



only to generate an ORD-IN application. Saved applications may be signed electronically and submitted: via an electronic inbox to ePUAP/KIS/ applications, as an attachment to a general letter in e-Tax Office. More on this on our website.

New limits for working retirees and disability recipients

↓ Published in Polish Monitor of 15 November 2023 (item 1227) was an announcement of the President of the Social Insurance Office (ZUS) of 13 November 2023 on the amounts of income that correspond to 70% and 130% of the average monthly salary announced for the 3rd quarter of 2023 applied while reducing or suspending retirement or disability benefits. The announcement indicates that starting from 1 December 2023, retirement or disability benefits will be reduced if the retiree's or disability recipient's pay exceeds PLN 5036,50, and completely suspended when it exceeds PLN 9353,50.

Tax authorities to give more time to file transfer pricing information

↓ The Ministry of Finance will extend the deadline for the filing of transfer pricing information (TPR). For taxable persons whose tax year ended on 31 December 2022 the deadline for the preparation of TPR will expire not at the end of November, as provided for in currently binding regula-



tions, but rather at the end of February 2024. It should be noted that in October the Ministry informed that the Central Repository of Electronic Document Templates has published new templates of electronic transfer pricing information relating to personal income tax - TPR-P and transfer pricing information relating to corporate income tax - TPR-C for 2022. More on this on our website.

Average monthly salary up to PLN 7194,95 in the third quarter

↓ According to an announcement made by the President of the Main Statistical Office

on 10 November 2023 on the average monthly salary in the third quarter of 2023 (Polish Monitor, item 1216), the average monthly salary in the third quarter of 2023 amounted to PLN 7194,95. The average monthly salary in the second quarter amounted to PLN 7005,76.

Ministry of Finance consults KSeF related changes in SAF

↓ The Ministry of Finance has launched consultations of a draft amendment to the decree on SAF_VAT with declaration, adapted to the requirement to issue invoices in the Domestic e-Invoice System (KSeF) as of 1 July

2024. The solutions adopted by the Ministry in the draft are aimed at adapting SAF_VAT with declaration to mandatory KSeF. For this reason the Ministry has announced that they will go into effect along with the statutory solutions – i.e. as of 1 July 2024. More on this on our website.

New consolidated text of the Tax Ordinance published in the Journal of Laws

↓ Published in the Journal of Laws (item 2383) on 6 November 2023 was an announcement of the Speaker of the Sejm of the Republic of

Poland of 13 November 2023 on publishing the consolidated text of the Tax Ordinance Act. The text includes changes made by 13 acts, which while amending other regulations, also introduced changes to the provisions of the Tax Ordinance.

Tax strategies for 2022 must be published by end of December

↓ 31 December 2023 is the deadline for the publication of information on the tax strategy followed in 2022 by taxable persons whose financial year is concurrent with the calendar year. The same deadline has been set for notifying the head of the tax office of the webpage where the information is published. Failure to notify carries a fine of as much as PLN 250 tho-

usand. More on this in our tax alert.

Police may check if remote employee is sober

↓ If there is a reasonable suspicion that an employee is working remotely under the influence of alcohol or consuming alcohol while performing work remotely, the police will be able to perform a sobriety check at the request of the employer – the National Police Headquarters (KGP) has confirmed to prawo.pl. The response does not resolve the matter of what happens if the employee refuses to open the door to his/her apartment. It is the opinion of experts that in such a situation the employer should inform the employee of being barred from performing work that day.



Important interpretations and rulings

Contractor's medical package without ZUS

➔ A benefit in the form of health insurance (private medical care) is not part of a contractor's social insurance premium calculation basis. As a result, no obligation will arise on the part of the business to pay premiums for such insurance on behalf of its contractors – the Social Insurance Office (ZUS) explained in an interpretation issued on 28 September 2023 (number DI/200000/43/902/2023). The costs of benefits provided to contractors based on an internal legal act – internal regulations and partially funded by the company – meet the requirements set out in § 2 par. 1 point 26 of the Minister's of Labor and Social Policy Decree of 18 December 1998 on the detailed methods used to determine the calculation basis for retirement and disability insurance.

Parking fees and highway tolls are income, but there is not tax

➔ Reimbursement to employees of additional documented costs of business travel related to the use of a private car, such as parking fees and highway tolls, constitutes income for the employees within the meaning of the provisions of the Personal Income Tax Act (PIT), it is income that is exempt from tax under Article 21 par. 1 point 16 of the PIT Act – states an individual interpretation issued by a National Tax Information Director on 20 October 2023 (number 0114-KDIP3-2.4011.814.2023.1.JK3). At the same time, the amount of the exemption relating to the reimbursement of the costs of parking fees and highway tolls is not included in the amount of the limited exemption relating to the costs of the trip itself (so-called mileage).

No invoice after receipt issued without NIP

➔ A trader's declaration that he is making a purchase as a VAT taxable person is a one-time and irrevocable action, with a binding



effect on the subsequent tax consequences of issuing a VAT invoice. Making such a declaration after the issue of a cash register receipt is ineffective irrespective of the reason for a change in the entity as which the taxable person intended to make the purchase – the Voivodship Administrative Court in Białystok ruled on 11 October 2023 (case file I SA/Bk 264/230).

You can deduct expenses for an influencer, but not for an employee

➔ Expenses for collaborating with influencers, bloggers or product testers fit within the scope of expansion relief. A taxable person may, therefore, deduct the remuneration paid to them twice. Once as a tax-deductible cost and the second time as a cost of promotional and informational activities as part of the relief. These are the conclusions from an interpretation issued by a National Tax Administration Director on 16 October 2023 (number 0111-KDIB1-3.4010.391.2023.1.JKU). At the same time, the interpretation stresses that the scope of expansion relief does not include expenses for employee wages and salaries (in this case, the salary of a marketing department employee), even if the employee performed activities that directly correspond to those listed in the catalog of costs covered by expansion relief in the PIT Act. More on this on our website.

CALENDAR (most important dates)

- ✓ Payment of ZUS premiums for October 2023 - other premium remitters
- ✓ Payment for October 2023 of monthly advance for personal income tax and corporate income tax
- ✓ Payment for October 2023 of advances collected on employment income
- ✓ Payment for October 2023 by remitters of advances collected for income tax or lump-sum income tax
- ✓ Payment of personal income tax and corporate income tax advances for 3rd quarter of 2023
- ✓ Payment by a holding company representing a tax group of the tax advance collected for October 2023
- ✓ Payment of lump-sum tax if in October 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 October 2023 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for October 2023 of income tax on income from a fixed asset that is a building
- ✓ Payment for October 2023 to PFRON
- ✓ Payment of lump-sum tax on income from: hidden profits and non-business expenses - if in October 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 October 2023
- ✓ Payment of tax on benefits or assets transferred or made available by family foundation in October 2023



CALENDAR

NOVEMBER 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					

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- ✓ Payment of VAT for October 2023
 - ✓ Filing of VAT-8, VAT-9M, VAT-12 for October 2023
 - ✓ Transmission of SAF_V7M for October 2023
 - ✓ Transmission of SAF_V7K for October 2023 (record section)
 - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for October 2023
 - ✓ Filing by tax representative of VAT-13 for October 2023
 - ✓ Reporting of sugar tax for October 2023
 - ✓ Reporting of retail sales tax PSD-1 for October 2023
 - ✓ Submission to PFRON of documents on subsidies to disabled employee wages for October 2023



- ✓ Filing of VAT declaration relating to import procedure VIU-DO for October 2023
- ✓ Submission (in electronic form) to the head of tax office of transfer pricing information for 2022 (for taxable persons whose tax year is concurrent with calendar year) NOTE: this deadline will probably be moved to the end of February 2024
- ✓ Filing of information on contracts concluded with non-residents ORD-U for 2022 by taxable persons whose tax year is concurrent with calendar year



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- ✓ Filing of VAT-14 on output VAT due on intra-Community acquisition of engine fuels for November 2023



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



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- ✓ Filing of INTRASTAT for November 2023



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



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CALENDAR



O BDO

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- ▶ 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.

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We will be happy to meet your needs and offer support.