

BS&O ALERT



A. Information

Specified work contracts concluded as of 1 January 2021 submitted to ZUS on form RUD

New regulation designates the form for reporting specified work contracts to ZUS as of 1 January 2021 – RUD. Forms need to be filed for each provider separately within 7 days of contract conclusion.

Entities and organizational units (e.g. associations, foundations, commercial law companies, etc.) that are not premium remitters because they do not submit at least one insured to social insurance, do not have to inform ZUS of new specified work contracts. In addition, the requirement does not apply to contracts: concluded with own employees; which,

although concluded with another entity, will be performed for one's own employer; concluded with persons who conduct business activities, for the provision of services by those persons. Whereas natural persons – as explained on ZUS' website – who conclude specified work contracts, must report them to ZUS irrespective of whether they are registered with ZUS as a premium remitter or not.

A new form entitled RUD (submission of specified work contract) is to be used to report specified work contracts. It may be filed electronically via the ZUS Electronic Services Platform (PUE) as of 1 January 2021. On its webpage ZUS informs that the form may also be filed in paper form.

The following data need to be provided on the form: in section I – the data of the ordering party – identification data and address; in section II – the data of the provider – identification data and address of the person with whom the contract has been concluded; in section III – information about concluded specified work contracts – dates of conclusion, performance dates (from-to) and number of concluded contracts. A separate RUD form must be completed for each provider. One RUD form may be used to report information about up to 10 specified work contracts.

Reportable to ZUS are contracts concluded starting from 1 January 2021. They must be reported within 7 days of contract conclusion. We discussed the reporting of specified work contracts to ZUS in previous issues of our alert.



As of 1 January certain contracts of mandate exempt from ZUS

Those who perform contracts of mandate (agency or other contracts for the provision of services) may apply to ZUS for an exemption of the ordering party from the requirement to calculate, deduct and remit premiums. Applications may be sent via the Electronic Services Platform (PUE).

As of 1 January 2021 a provider may apply to ZUS for an exemption from the accrual of premiums (RZN). This should be done within 7 days of contract conclusion. Applications may be submitted for premiums due for the period from 1 January to 30 April 2021.

The following conditions must be met to be granted an exemption: the contract must be concluded between 1 January and 31 March 2021; the subject of the contract must be related to an activity and services specified in Crisis Shield 6.0; total revenue from the performance of the contracts to all of the ordering parties, in the month prior to the month in which the application was filed, cannot exceed 100% of the average monthly wage in the previous quarter; the provider cannot be subject to social insurance under any title other than contract of mandate.

As indicated in the new regulations, an exemption may be granted if the subject of the contract relates to: creative activities in the area of plastic arts, literature, music, audio arts, audiovisual works, theatre, costume design, stage design, directing, choreography, artistic violin-making and folk art; artistic activities in the areas of acting, performing, dance and circus arts, as well as conducting, vocalism and instrumentalism; technical activities in support of audiovisual production or the production and staging of artistic events; services in the areas of architecture, interior design, landscape design and architectural services provided by persons without a building license as defined in the Building Law of 7 July 1994; services provided to museums as defined in the Museums Act of 21 November 1996: within non-school forms of education or by museum guides.

Social insurance premiums covered by the exemption are not credited to the insured's account. During the period of exemption the provider and members of his family whom he had submitted to health insurance are covered by health insurance.



In January PIT-11 corrections will only be possible on new forms

In January 2021 corrections to PIT-11 can only be made on the current version of the form – version 26. Corrections on the previous versions of PIT-11 may once again be issued as of February. PIT-11 for 2020 have to be sent to the tax office by Monday, 1 February 2021.

The Ministry of Finance has announced that until the end of January 2021, PIT-11 can be submitted electronically in only the newest version of the form – i.e. version 26. This also applies to corrections of PIT-11 for earlier periods. This is meant to prevent the submission of PIT-11 for 2020 on earlier, no longer used versions of the form. The ability to use other versions of PIT-11 (to make corrections to previous years) will be reinstated in February 2021.

Employers are required to submit PIT-11 to tax offices by the end of January (only in electronic form; for declarations for 2020 until 31 January 2021, but because it is a Sunday, the deadline is Monday, 1 February), and to employees by the end of February (in any form; by 28 February 2021, but because it is a Sunday, the deadline is Monday, 1 March). If a correction is being made to a PIT-11 that has already been sent, the correction is made on the version of the form that was applicable at the time of original issue. An exception to this rule was made for January 2021.

The Ministry has also noted that the remitter (employer) is required to enter on the form the correct NIP or PESEL of the taxable person (employee). It is an error to enter a sequence of the same digits (such as 1111111111 or 9999999999). Absence of correct data on a form filed to the tax office will prevent or make it difficult for the taxable person (em-

ployee) to comply with his PIT obligations. The Ministry stresses that a correctly entered NIP or PESEL will make it possible to clearly identify the taxable person (employee). As a result, his tax return will be generated and made available through the Twój e-PIT service on podatki.gov.pl.

If the employee is a foreigner who lives in Poland, he should have a PESEL. He can submit an application for the assignment of a PESEL to the relevant organ (municipality, district office) along with documents that confirm the data entered in the application. Applications for the assignment of a PESEL (for a foreigner) may be filed with: the municipality authority relevant to the taxable person's (employee's) place of residence; the municipality authority relevant to the registered office of the employer, if the taxable person (employee) is unable to register his place of residence; the Warszawa-Śródmieście District Office (ul. Nowogrodzka 43) – if the taxable person (employee) is not yet working or if the employer's registered office is outside of Poland.



Forms informing of having selected Estonian CIT may already be filed

Taxable persons may already file declarations of having selected flat-rate tax on corporate income (so-called Estonian CIT). Those whose tax year is concurrent with the calendar year have until the end of January to file the declarations.

To be taxed with the Polish version of Estonian CIT (flat-rate taxation of corporate income) it is necessary to notify the head of the relevant tax office of having chosen this form of taxation, using a designated template, by the end of the first month of the tax year in which flat-rate taxation is to be applied.

This means that if a company wants to apply the flat-rate tax as of 1 January 2021, it must notify the tax office by 31 January 2021. Relevant declaration specimens have been published in the Regulation of the Minister of Finance, Funds and Regional Policy of 4 January 2021 on the specimens of notification of having chosen flat-rate taxation of corporate income and of declaration on entities the rights to which are held by a shareholder of a taxable person whose corporate income is subject to flat-rate taxation (7 January 2021 Journal of Laws, item 29). Notification of having chosen flat-rate taxation of corporate income was given the designation of ZAW-RD. Declaration on entities the rights to which are held by a shareholder of a taxable person whose corporate income is subject to

flat-rate taxation was given the designation of OSW-RD. The forms went into effect as of 8 January 2021.

The new regulations (see 2020 Journal of Laws, item 2122) specify a number of conditions that must be met by a taxable person who wants to apply the new flat-rate taxation (Estonian CIT). They are described in Article 28j of the amended CIT Act. Most of all, total revenue (including output VAT) from business operations generated in the tax year preceding the year in which the company will begin applying flat-rate taxation cannot exceed PLN 100 million. In addition, less than half of such revenue may come from: debts, interest and gains on all types of loans, interest on lease installments, guarantees and warranties, copyrights or industrial property rights, including from the sale of such rights, from the sale and exercise of rights to financial instruments and from transactions with related parties.

It is also necessary to meet conditions relating to average employment (we described them in one of our tax alerts in August 2020) and to company shareholders. Furthermore, the company cannot prepare its financial statements in accordance with IAS. The taxable person must also meet employment conditions and incur specified investment expenses.

Estonian CIT has been discussed at length in our tax alerts and on our website.



In short

↓ **Payment of premiums as part of so-called Small ZUS Plus must be reported by 1 February 2021**

Entities can now start to sign up for the so-called Small ZUS Plus, which allows for the payment of lower social insurance premiums (but not health insurance premiums). Entities that meet the conditions for using the relief should apply to ZUS no later than by 1 February 2021. The forms to use are: ZUS ZWUA (deregistration with current insurance code) and ZUS ZUA or ZUS ZZA (submission to insurance with a Small ZUS Plus code: 05 90 or 05 92). Entities that used Small ZUS Plus in 2020 and continue to meet the conditions in 2021 do not have to resubmit.

↓ **Financial statements to be signed by just one board member**

The government is working on amendments to the Accounting Act to introduce changes relating to financial statements. The draft primarily provides for changes in the Accounting Act with regard to the signing of financial statements. Under currently binding regulations of the Act, financial statements are signed by the person entrusted with keeping the books of account and the entity's manager, and if the entity is managed by a body of people - by all of the members of that body. The change consists of making it possible for this action to be performed by only one member of a multi-member

management board. The new regulations are to go into effect after just 7 days of publication in the Journal of Laws. More on this in our tax alert.

↓ **Those using reduced ZUS must file reporting documents for January**

ZUS reminds that every entity using Small ZUS Plus in 2021 must file ZUS DRA part II or ZUS RCA part II with a complete set of ZUS DRA for January 2021 (by the 10th or 15th of February) or the first month in which it restarted/commenced operations conducted in 2020 (by the 10th or 15th of the following month) with information about annual revenue, annual income and forms of taxation applied to the conducted business operations.

↓ **Employers will be able to check employees for sobriety**

The Ministry of Development, Labor and Technology is working on regulations that will allow employers to perform preventative checks of employees for the presence of alcohol or similar substances and regulate the performance of such checks. There are also plans for the introduction of a comprehensive regulation setting out the basis on which employers can prevent intoxicated employees from performing work. The draft is currently being worked on within the ministry.



↓ No changes to contributions to Company Social Benefits Funds in 2021

In accordance with the Act of 19 November 2020 on special solutions to perform the 2021 State Budget Act (Journal of Laws item 2400), when calculating the basis for the calculation of contributions to their Company Social Benefits Fund, as of 1 January 2021 entities should use the average monthly salary in the national economy announced by the President of GUS in the second half of 2018 (i.e. PLN 4134,02). The basis is, therefore, exactly the same as last year.

↓ Night work allowance up as of January 2021

As of 1 January 2021 the allowance for night time work has gone up following the increase in gross minimum wage to PLN 2800 per month. The allowance is equal to 20 percent of the hourly rate

calculate based on the minimum wage. Thus as of 1 January 2021 it amounts to from PLN 3,04 to 3,68 (gross). The value of the allowance differs depending on the number of hours worked. Under the Labor Code, night time is defined as the time between the hours 9.00 pm and 7.00 am. Within those 10 hours the employer sets the beginning and end of 8-hour night shifts at a given workplace.

↓ Time to deduct covid losses and recover taxes

Taxable persons whose revenue fell in 2020 by at least 50% compared to 2019 due to COVID-19, if they closed the year with a tax loss, may already deduct that loss retroactively. To do this they must file a correction of their 2019 return. As part of the correction taxable persons can make a one-off deduction of up to PLN 5 million. If the loss incurred in 2020 was higher,

the amount of PLN 5 million may be deducted as part of the correction for 2019. The excess may be deducted in the next five years. More on this on www.bdo.pl

↓ ZUS premiums for business operators up as of 1 January 2021

The amounts of ZUS premiums paid by business operators who do not use relief (60% of calculation base) have been announced. And so for the period from January to December 2021 these premiums amount to: retirement – PLN 615,93; disability – PLN 252,43; sickness – PLN 77,31; accident – PLN 52,70 (1,67%), for a total ZUS premium of PLN 1075,68. The amount of the health insurance premium will be known at the beginning of February. First payment of premiums at the new amount will be on 10 February 2021 (for January 2021).



B. Interpretations and Rulings

Payment of business premiums may be stopped after being hired for minimum wage

➔ If a person who conducts non-agricultural business operations is at the same time employed, he/she is subject to mandatory social insurance only under the employment relationship, if the basis for the calculation of premiums under the employment relationship per month is equal to or higher than minimum wage – indicates an interpretation issued by ZUS on 18 December 2020 (number WPI/200000/43/879/2020). If therefore a business operator concludes an employment contract for 7/8th time with wages reduced accordingly to an amount below minimum wage, then he/she will continue to be subject to mandatory social insurance on the business operations.

Conclusion of agency agreement with former employer does not take away the right to reduced ZUS

➔ A seller that had been employed on the basis of an employment contract, and later concluded an agency agreement (management services: store management and sale of goods provided by the company, i.e. in a capacity different than in the employment

contract), has the right to pay retirement and disability premiums on account of conducting non-agricultural business operations, on a calculation basis declared at an amount no lower than 30% of the minimum wage in the first 24 calendar months (so-called reduced ZUS) from the date of being covered by social insurance – explains an interpretation issued by ZUS on 29 December 2020 (number WPI/200000/43/932/2020).

Remitter can retroactively calculate remuneration for tax calculation

➔ A remitter can deduct the flat-rate remuneration referred to in Article 28 § 1 of the Tax Ordinance, calculated on thus-far timely paid personal income tax advances for a period not expired under the statute of limitations on tax liabilities, from personal income tax advances calculated and collected currently (and in the future) – states a tax interpretation issued on 30 December 2020 (number 0111-KDIB2-1.4017.26.2020.1.MK). The statute of limitations on tax liabilities expires after 5 years from the end of the calendar year in which the given liability was due. Thus the end of 2020 was the expiration of the statute of limitations on tax liabilities due in 2015.

Company is not a remitter of tax on management's option plan income

➔ Taxable income resulting from the participation of board members in an option plan, irrespective of the moment when the options and shares are received, arise only upon the disposal of the shares and constitutes those board members' income from so-called money capital (income referred to in Article 30b par. 1 of the PIT Act), subject to taxation at a flat-rate of 19%. In consequence, the company is not and will not be obligated as a remitter in this respect – indicates a tax interpretation issued on 30 December 2020 (0113-KDIPT2-3.4011.739.2020.2.SJ).



C. Calendar (most important deadlines)

- ✓ Payment of ZUS premiums for December 2020 – other remitters of premiums (excluding individuals who pay only their own premiums and state and local budget entities)
- ✓ Payment to PPK for December 2020



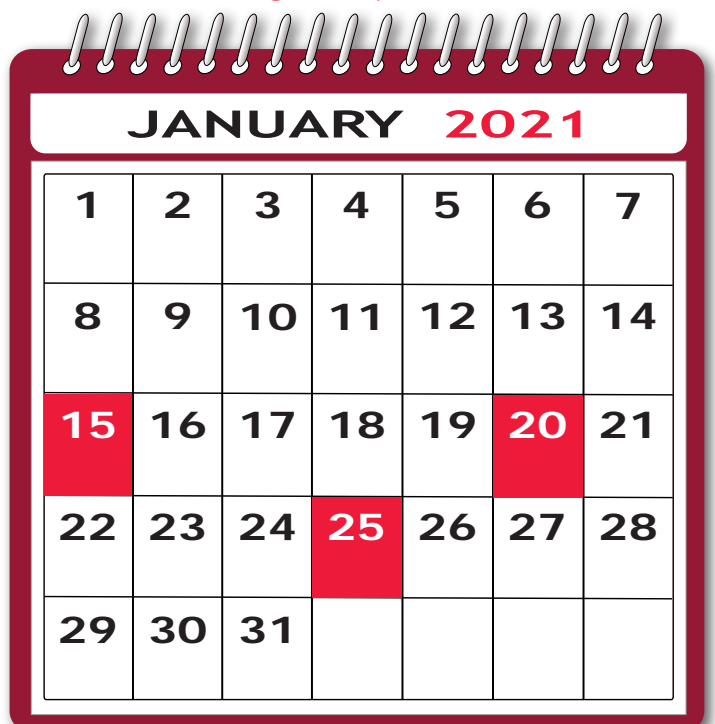
- ✓ Payment for December 2020 of advances collected on employment income
- ✓ Payment for December 2020 or last quarter of 2020 of advance for personal and corporate income tax
- ✓ Payment by a holding company representing a tax group of the tax advance collected for December 2020
- ✓ Payment of lump-sum CIT-5
- ✓ Payment for December 2020 to PFRON



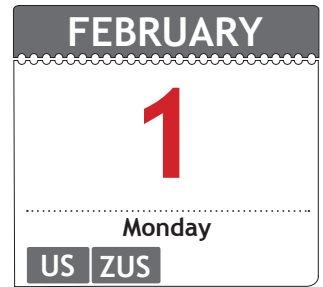
- ✓ Payment of VAT for December 2020
- ✓ Filing of VAT-8, VAT-9M and VAT-12 for December 2020
- ✓ Filing of SAF_V7M for December 2020
- ✓ Filing of SAF_V7K for December 2020 (record and declaration section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for December 2020
- ✓ Filing of VAT-13 by tax representative for December 2020
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for December 2020



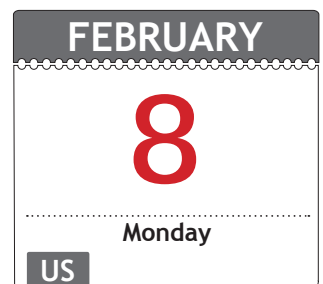
CALENDAR



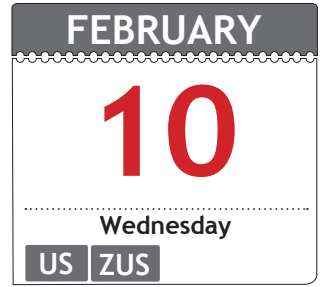
- ✓ Filing of application for exemption from the requirement to pay ZUS premiums due for the period from 1 to 30 November 2020 for selected industries under Shield 6.0
- ✓ Filing by general partnerships of information about CIT and PIT taxable persons who directly or indirectly through entities that are not taxable with income tax, hold rights to the partnership's profits
- ✓ Submission to the tax office (in electronic form only) of PIT-11 information
- ✓ Submission to the tax office (in electronic form only) of PIT-8C information
- ✓ Submission to the tax office of annual calculation of tax by disability organ/information about income obtained from disability organ for 2020 (PIT-40A/11A)
- ✓ Filing of annual declaration (in electronic form) of income tax advances for 2020 (PIT-4R)
- ✓ Filing of annual declaration (in electronic form) of lump-sum income tax for 2020 (PIT-8AR)
- ✓ Filing (to the tax office) of information about amounts paid to taxable person for performing social and civic duties for 2020 (PIT-R)
- ✓ Submission to ZUS of data for 2020 for the calculation of accident insurance premiums (ZUS IWA)
- ✓ Filing of declaration CIT-6AR
- ✓ Filing of declaration CIT-11R for 2020 on the amount of income tax on income from dividends and other income from shares in the profits of legal entities, spent for purposes other than listed in declaration CIT-5 or declaration CIT-6AR
- ✓ Filing of declaration on the amount of lump-sum income tax collected for 2020 (CIT-10Z); on the amount of income (revenue) from dividends and other income from shares in the profits of legal entities, earned in 2020 (CIT-6R)
- ✓ Submission to the tax office of notification of having chosen flat-rate taxation of corporate income for the period from 1 January 2021 to 31 December 2024 (ZAW-RD)



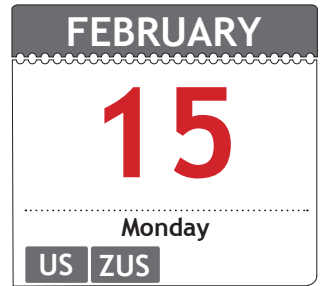
-
- ✓ Payment of lump-sum income tax collected in January 2021 – CIT-7
 - ✓ Payment of lump-sum income tax collected in January 2021 on amounts paid to foreign legal entities
 - ✓ Payment by acquirer of lump-sum income tax for January 2021
 - ✓ Filing of declaration on the amount of income from unrealized profits PIT-NZ and PIT-NZS for January 2021 and payment of tax due from declarations filed for the months from January 2019 to January 2021
 - ✓ Filing of declaration on the amount of income from unrealized profits CIT-NZ for January 2021 and payment of tax due as indicated in that declaration



- ✓ Payment of ZUS premiums for January 2021 – individuals who pay only their own premiums
- ✓ Filing of INTRASTAT for January 2021

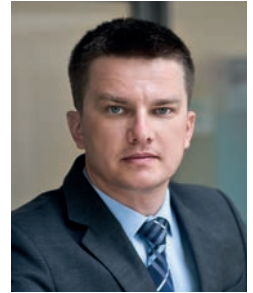


- ✓ Payment of ZUS premiums for January 2021 – other remitters of premiums (excluding individuals who pay only their own premiums and state and local budget entities)
- ✓ Payment to PPK for January 2021



CALENDAR





PIOTR GRACZ
Head of Business
Services & outsourcing
department

O BDO

BDO is the world's largest audit firm focused on the medium enterprises market. dealing professionally with your financial matters, we leave you enough space to grow your business. Due to our international cooperation within the BDO network, we develop our knowledge and coordinate international projects. We put long-term relations first, and base them on mutual trust and respect.

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.