

BS&O ALERT

SPECIAL
ISSUE



Crisis Shield 7.0 – applications for assistance are already being accepted

Ladies and Gentlemen,

Businesses from industries specified in Crisis Shield 7.0 may once again apply for stand-down benefits and an exemption from the requirement to pay ZUS premiums for January 2021 or for December 2020 and January 2021. It is also possible to get a subsidy for employee wages and for current costs of business operations. Because interest in these regulations is high, we are dedicating the majority of this issue of our alert to this very matter. Other significant developments are discussed under the “In short” heading. Should you have any additional questions or concerns, our experts are always at your disposal.

Before we move on to discussing the various forms of assistance, because it is addressed to businesses with specific PKD codes, we want to point out that to get the assistance the PKD code must be the code of the business’ main area of activity. The data contained in the REGON registered as at 30 November 2020 are used to determine if a business meets this condition. If a business changed the PKD of its main area of activity in the CEIDG or KRS to a PKD that enables the use of assistance after 30 November 2020, even if indicating a retroactive change date, the business will not meet the condition of conducting an activity with a qualifying PKD code as at 30 November 2020 and will not be eligible for assistance under Shield 7.0. Only changes submitted no later than 30 November 2020 count in this case.



PLN 2000 subsidy to employee wages

Under Crisis Shield 7.0 a monthly subsidy of PLN 2000 will be available per employee, subject to the number of hours worked. It may be received for a total of 3 calendar months from the application filing month. The subsidy is paid in monthly installments. In accordance with binding regulations, an employee is a natural person who under Polish regulations remains in an employment relationship with an employer. This pertains to persons who: are employed based on an outwork contract, specified work or another service contract subject to regulations on commissioned work, or performing gainful work on a basis different than an employment relationship with an employer that is an agricultural production cooperative or another cooperative handling agricultural production, if as a result he is subject to mandatory pension and disability insurance. Importantly, a business that receives a subsidy to employee wages will not be able to terminate their employment for reasons not caused by the employees in the period covered by the subsidy. Subsidies may be used as of 1 February 2021.

There will be no subsidies to the wages of employees: whose wages earned in the month preceding the month of the application for benefits to protect jobs was higher than 300% of the average monthly wage from the previous quarter as announced by the President of the Main Statistical Office based on regulations on pensions and disability benefits from the Social Insurance Fund, in effect as at the application date, as well as employees hired less than 3 months before the application filing date.

Applications for subsidies to employee wages may be filed by 31 March 2021 at the latest, with the Voivodship Employment Office (WUP) relevant to the employer's place of business establishment, only electronically, using an electronic form on the praca.gov.pl website. Subsidies will be available to businesses whose main areas of activity as at 30 November 2020 fell under the following codes in the Polish Classification of Activities: 55.10.Z, 55.20.Z, 55.30.Z, 79.11.A, 79.12.Z. Additional conditions will also have to be met: apply for the subsidy may only those businesses whose revenue from the said activity generated in one of the three months preceding the filing of the application was, as a result of COVID-19, at least 40% lower than the revenue generated in the month before or in the same month of the previous year. The business must also be an employer which by the end of the 3rd quarter of 2019 was current on the payment of tax obligations, social and health insurance premiums, contributions to the Guaranteed Employee Benefits Fund, Labor Fund or the Solidarity Fund. An exception would be a situation where the company has an agreement with the Social Insurance Office or a decision from the tax office for the repayment of debt and is current on the payment of installments, or is under a payment deferral. In addition, the business cannot meet the conditions for the filing of bankruptcy and no restructuring or liquidation proceeding can be underway against it.



Businesses may again apply for stand-down benefits

The renewed stand-down benefits granted under Crisis Shield 7.0 are designated for those who conduct non-agricultural business activities, had previously received the benefit and meet the conditions to get it again. The renewed benefit may be received once or a maximum of twice, depending on the PKD of the main area of activity.

The new stand-down benefit will be granted at the same amount as the previously paid benefit, i.e. PLN 2080 or PLN 1300.

Stand-down benefits are granted again based on a declaration of an eligible person who has previously been paid the benefit. The declaration should include the following information: that the applicant has no other title to social insurance, unless the applicant is subject to social insurance under another title and under business operations; that as at 30 November 2020 the applicant conducted business operations where the main area of activity fell under a PKD code that makes him eligible to reapply for the benefit; that in the two months preceding the month of the application the applicant generated revenue that was by at least 40% lower than the revenue generated in the month before or in the same month of the previous year.

Applications for renewed stand-down benefits (RSP-DD7) may be filed with the Social Insurance Office starting from 1 February 2021. They must be filed no later than within 3 months

of the month in which the state of epidemic is lifted. They may only be filed electronically via the Social Insurance Office's Electronic Services Platform (PUE ZUS).

A one-time stand-down benefit may be paid to businesses whose main areas of non-agricultural activity as at 30 November 2020 fell under codes 47.71.Z, 47.72.Z, 47.81.Z, 47.82.Z, 47.89.Z in the Polish Classification of Activities, and whose revenue from those activities generated in one of the two months preceding the month of the application was by at least 40% lower than the revenue generated in the month before or in the same month of the previous year.

A two-time stand-down benefit may be paid to businesses whose main areas of non-agricultural activity as at 30 November 2020 fell under codes 49.39.Z, 55.10.Z, 55.20.Z, 55.30.Z, 56.10.A, 56.10.B, 56.21.Z, 56.29.Z, 56.30.Z, 59.11.Z, 59.12.Z, 59.13.Z, 59.14.Z, 59.20.Z, 74.20.Z, 77.21.Z, 79.11.A, 79.12.Z, 79.90.A, 79.90.C, 82.30.Z, 85.51.Z, 85.52.Z, 85.53.Z, 85.59.A, 85.59.B, 86.10.Z (with regard to medical activities consisting of providing services as part of spa treatments or residential medical rehabilitation), 86.90.A, 86.90.D, 90.01.Z, 90.02.Z, 90.04.Z, 91.02.Z, 93.11.Z, 93.13.Z, 93.19.Z, 93.21.Z, 93.29.A, 93.29.B, 93.29.Z, 96.04.Z, 96.01.Z. The revenue condition is the same as for the one-time benefit.



PLN 5000 one-time subsidy for current costs of business operations

A subsidy for current costs of business operations as part of Crisis Shield 7.0 is designated to cover the current costs of business operations of micro and small businesses and is granted once up to the amount of PLN 5000 and may only be received once.

A one-time subsidy is available to a micro business or small business that: has not suspended operations for a period that covers 30 November 2020 and in the month preceding the month of the application generated revenue that was by at least 40% lower than the revenue generated the month before or in the same month of the previous year.

The subsidy will not have to be repaid on the condition that the business continues to conduct operations for 3 months from the receipt of the subsidy. At the same time, the subsidy will be subject to repayment if, in particular, the businesses spent it contrary to its designation. The staroste may conduct an inspection of the micro businesses or small businesses to whom the subsidies have been granted in a period of 3 years counting from the receipt of the subsidy.

As was the case with the previous shields, the revenue from the subsidy does not constitute revenue as defined in personal income tax and corporate income tax regulations. It does not, therefore, increase taxable revenue.

Importantly, the granting of the subsidy under Crisis Shield 7.0 is independent of any subsi-

dies granted under Shield 6.0. In other words, if a business received a subsidy under Shield 6.0, it may still apply for a subsidy under Shield 7.0.

Applications for subsidies to cover the current costs of business operations of micro and small businesses may be filed electronically, by 31 March 2021, with the county employment office (PUP) relevant to the business' place of establishment, once the PUP director announces their acceptance.

Eligible to apply are those businesses whose main areas of activity as at 30 November 2020 fell under codes: 47.71.Z, 47.72.Z, 47.81.Z, 47.82.Z, 47.89.Z, 49.39.Z, 52.23.Z, 55.10.Z, 55.20.Z, 55.30.Z, 56.10.A, 56.10.B, 56.21.Z, 56.29.Z, 56.30.Z, 59.11.Z, 59.12.Z, 59.13.Z, 59.14.Z, 59.20.Z, 74.20.Z, 77.21.Z, 79.11.A, 79.12.Z, 79.90.A, 79.90.C, 82.30.Z, 85.51.Z, 85.52.Z, 85.53.Z, 85.59.A, 85.59.B, 86.10.Z (with regard to medical activities consisting of providing services as part of spa treatments or residential medical rehabilitation), 86.90.A, 86.90.D, 90.01.Z, 90.02.Z, 90.04.Z, 91.02.Z, 93.11.Z, 93.13.Z, 93.19.Z, 93.21.Z, 93.29.A, 93.29.B, 93.29.Z, 96.01.Z, 96.04.Z.

An additional condition is for the business to not suspend operations for a period that covers 30 November 2020 and to in the month preceding the filing of the application generate revenue that was by at least 40% lower than the revenue for the month before or for the same month of the previous year.



As much as two months of exemption from payment of ZUS premiums

Eligibility for an exemption from the payment of premiums is granted for one month or for two months, i.e. for January 2021 or for December 2020 and January 2021. The exemption covers social insurance and health insurance premiums and contributions to the Labor Fund, Solidarity Fund, the Guaranteed Employee Benefits Fund and the Bridging Pension Fund.

Exemption from the requirement to pay premiums under Shield 7.0 is granted irrespective of whether the premiums for the period indicated in the application have been paid or not. If the premiums have been paid, but the business qualifies for the exemption, then after being informed of having received the exemption the business may apply for a refund of the premiums. The overpayment will be refunded if the business has no arrears at ZUS.

Applications for an exemption from the payment of premiums (RDZ-B7) may be filed with ZUS from 1 February 2021 to 31 March 2021, only electronically, via the ZUS PUE platform.

Monthly exemptions will be granted to businesses that had been submitted as remitters of premiums before 1 November 2020 and that as at 30 November 2020 conducted operations where the main area of activity fell under PKD codes 47.71.Z, 47.72.Z, 47.81.Z, 47.82.Z, 47.89.Z.

Two-month exemptions are available to businesses that had been submitted as remitters of premiums before 1 November 2020 and that as at 30 November 2020 conducted operations where the main area of activity fell under PKD 49.32.Z, 49.39.Z, 52.23.Z, 55.10.Z, 55.20.Z, 55.30.Z, 56.10.A, 56.10.B, 56.21.Z, 56.29.Z, 56.30.Z, 59.11.Z, 59.12.Z, 59.13.Z, 59.14.Z, 59.20.Z, 74.20.Z, 77.21.Z, 79.11.A, 79.12.Z, 79.90.A, 79.90.C, 82.30.Z, 85.51.Z, 85.52.Z, 85.53.Z, 85.59.A, 85.59.B, 86.10. Z (with regard to medical activities consisting of providing services as part of spa treatments or residential medical rehabilitation), 86.90.A, 86.90.D, 90.01.Z, 90.02.Z, 90.04.Z, 91.02.Z, 93.11.Z, 93.13.Z, 93.19.Z, 93.21.Z, 93.29.A, 93.29.B, 93.29.Z, 96.01.Z, 96.04.Z.

In both cases, the additional conditions for obtaining an exemption are: taxable revenue generated in one of the two months preceding the month of the application must be at least 40% lower than the revenue generated in the month before or in the same month of the previous year; the remitter must file a declaration and an individual monthly statement for each of the months indicated in the application (January or December – January) by no later than 28 February 2021 (unless the business is exempt from the requirement to file them); the said application RDZ-B7 must be filed no later than by 31 March 2021.



In short

↓ In the second quarter of 2021 ZUS will begin operating Relief Application Service Centers

The Social Insurance Office is working on launching 10 Relief Application Service Centers (CUL) in the second quarter of 2021. The objective is to raise the quality of services and to provide more consistency in such matters as spreading premium payments into installments or deferring their payment due date.

↓ Remitters must forward tax information to employees by 1 March

Remitters have until 1 March to send PIT statements, i.e. mainly PIT-11 forms, to their employees. The deadline also covers forms PIT-8C and PIT-R. It should be noted that form IFT-1R may still be prepared by the end of February and then sent to the tax office (the other forms should have been sent no later than 1 February). IFT-1R should only be submitted to the tax office electronically. The form should be delivered to the taxable person by 1 March 2021.

↓ Traders' health insurance premium has grown by PLN 233,64 per year

This year the health insurance premium of a trader who pays it for himself amounted to PLN 381,81 (compared to PLN 362,34 last year). It has

thus grown by PLN 19,47 per month, or PLN 233,64 per year. Traders' ZUS premiums have also gone up as of 1 January 2021, to the following amounts for the period from January to December 2021: retirement – PLN 615,93; disability – PLN 252,43; sickness – PLN 77,31; accident – PLN 52,70 (1,67%), for a total of PLN 1075,68 in ZUS premiums. These amounts should have been paid for the first time by the 10th of February, for January.

↓ The minister of finance has again extended the deadline for the payment of advances

The minister of finance, funds and regional policy Tadeusz Kościński has once again decided to issue a decree extending the time for the payment of income tax and flat-rate personal income tax. The decree covers such industries as: restaurant, entertainment, fitness, retail sales, tourism. The decree extends until 20 August 2021 the deadline for the payment of tax advances and flat-rate taxes collected by remitters in January 2021 (applies to declarations PIT-4R and PIT-8AR).

↓ The tax authorities have explained VAT on road contracts and plan to explain SLIM VAT

At the end of January the Ministry of Finance published tax explanations on VAT taxa-

tion of road contracts and tax explanations on VAT taxation of 'maintain standard' and 'callout' road contracts. A draft of tax explanations on SLIM VAT has also been prepared. According to the first set of explanations, of key importance under VAT is a breakdown into contracts where the subject is: a complex performance – then the VAT rate of 23% applies; several separate road maintenance performances – then the rate applicable to the given performance is either 23% or 8%. The SLIM VAT explanations devoted a lot of attention to negative corrections of invoices (we discussed this in more detail in our tax alert).

↓ The government is planning major changes in the calculation and revaluation of pension benefits

Those whose benefit was calculated based on wages and length of service, but who after retiring or obtaining disability benefits continue to work, will lose the right to get benefit increases resulting from a recalculation of the benefit calculation base. It will also not be possible to extend length of service by non-premium periods, and the amount of the benefit will be recalculated once a year instead of once a quarter as is the case now – indicates a draft bill prepared by the Ministry of Family and Social Policy amending the Social In-

insurance System Act and certain other acts (paper UD175). The draft is currently in the review stage. The changes arising out of the amendments would go partially into force as of 1 April 2021, and partially as of 1 January 2022.

↓ PIP announces more than 50 thousand inspections of businesses

The National Labor Inspection (PIP) has announced that in 2021 it wants to conduct 52 thousand inspections. It intends to verify compliance with crisis shield regulations on job protection, as well as with occupational health and safety during the COVID-19 epidemic. As indicated in the information provided by PIP, and based on previous experience, when preparing for the inspections employers should, among others, review their

instructions and procedures, occupational risk assessments or documentation of particularly hazardous work.

↓ Official invoice issuing system to be introduced in October

Another proposed amendment to the VAT Act (the Act amending the Value Added Tax Act and certain other acts; paper UD 159) has just been submitted for so-called pre-consultations. The draft calls for a refund of VAT after 40, rather than 60 days in cases when all of the taxable person's invoices are issued in the government's invoice issuing system. The system (Domestic e-Invoice System) would be launched on 1 October 2021. The tax authorities have indicated that the invoices issued through the system would be stored for 10 years. More on this in our tax alert.

↓ Small companies have little time to finish implementing PPK

1 January 2021 was the beginning of the final stage of implementation of employee capital plans (PPK). It applies to companies with fewer than 20 employees, as well as entities from the public finance sector. It should be remembered that employers with up to 19 employees have only until 23 April to choose a PPK manager. Whereas a PPK management agreement must be signed by 10 May. Micro companies (fewer than 10 employees and EUR 2 million in turnover) may exempt themselves from the PPK requirement if all of the entity's employees submit a declaration of non-participation in PPK. Such an exemption may, however, be lost whenever an employee declares that he/she wants to participate in the PPK.



Interpretations and rulings

Doughnuts for employees are a cost, with no income for the employee and with a VAT deduction

➔ Because on 11 February (so-called Fat Thursday) many employers treated their employees to doughnuts, it is a good time to remind you that this expense may easily be added to tax-deductible costs. The tax authorities also recognize that no taxable income from free benefits needs to be assessed on the employees as a result of being offered doughnuts by the employer. Thus the value of the doughnuts does not need to be added to employee wages. The National Tax Administration has issued many individual interpretations in which it classified doughnuts for employees as tax-deductible costs. It is also possible to deduct the VAT on such purchases (see for example interpretation number 0111-KDIB3-1.4012.662.2017.3.AB dated 19 January 2018).

Excessive wages may breach insurance regulations

➔ Under social insurance law where the public element is very clearly pronounced, an excessive wage preference of an employee, which in labor law would fall within Article 353[1] of the Civil Code, may – in the circumstances of each specific case – be construed as an intention to abuse the benefits resulting from that insurance. The maintenance nature



of the benefits and the principle of social solidarity require that wages – which constitute the basis for premium calculation – not be set above a limit that is just, equitable and provides a fair standard of living, and that they do not grossly exceed the value of contributed work, and in consequence that the premium does not translate into a benefit at an undue amount – found the Supreme Court in its ruling of 14 January 2021 (case file III USK 3/21).

The pension authority may consent to the payment of voluntary premiums after due date

➔ The Social Insurance System Act allows the pension authority to consent to the payment of voluntary social insurance premiums after they are due, which does not mean that ZUS has completely unhampered discretion in granting or refusing a request for such consent. ZUS should exercise its powers using verifiable, fair criteria. As a result, in refusing to give consent for a premium to be paid after the due date, ZUS is required to provide the reasons for its decision. The decision is then subject to a substantive assessment by a court – stated the Court of Appeals in Lublin in its ruling of 23 December 2020 (case file III AUa 945/20).

ZUS has the right to assess the amount of wages in connection with insurance

➔ If the pension authority has the right to verify “artificially” overstated wages, it may in the same way question their “artificial” understatement by multiplying commission contracts and unnaturally dividing components that are strictly related to the nature of a given job in order to avoid or reduce to a minimum the necessity to bear public burdens, such as social insurance premiums. Such actions on the part of businesses, as intended directly to circumvent the law, can not deserve approval – found the Supreme Court in its ruling of 8 October 2020 (III UK 411/19).

CALENDAR (most important deadlines)

- ✓ 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



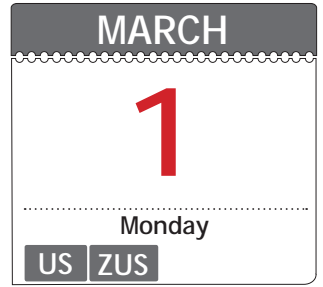
- ✓ Payment for January 2021 of advances collected on employment income
- ✓ Payment for January 2021 of monthly advance for personal and corporate income tax
- ✓ Payment for January 2021 of advances collected for income tax or flat-rate income tax
- ✓ Payment for January 2021 of lump-sum on registered revenues
- ✓ Payment by a holding company representing a tax group of the tax advance collected for January 2021
- ✓ Payment for January 2021 to PFRON
- ✓ Payment by a real estate company/tax representative of a real estate company of a tax advance for January 2021 and provision of information PIT-ISN and CIT-ISN to the taxable person



- ✓ Payment of VAT for January 2021
- ✓ Filing of VAT-8, VAT-9M and VAT-12 for January 2021
- ✓ Filing of SAF_V7M for January 2021
- ✓ Filing of SAF_V7K for January 2021 (record section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for January 2021
- ✓ Filing of VAT-13 by tax representative for January 2021
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for January 2021



- ✓ Filing of declaration on the amount of revenue earned, deductions made and flat-rate tax due on registered revenues for the year 2020 (PIT-28) and payment of flat-rate tax for December or the last quarter of 2020
- ✓ Provision to taxable person of information on revenue from other sources and on income and income tax advances collected in 2020 (PIT-11)
- ✓ Provision to taxable person of information on certain income from capital gains in 2020
- ✓ (PIT-8C)
- ✓ Provision to taxpayer of annual tax calculation by a pension authority/information about income obtained from a pension authority for 2020 (PIT-40A/11A)
- ✓ Provision to the tax office (only electronically) and person with limited tax liability of individual information about revenue (income) earned in 2020 (IFT-1R)
- ✓ Provision (to the taxable person) of information about the amounts paid to the taxable person for the performance of social and civic duties for 2020 (PIT-R)
- ✓ Submission to PFRON by disabled person who conduct business operations of an application for a refund of pension and disability premiums paid for January 2021
- ✓ Provision to the insured of information for the year 2020 about the data contained in the individual monthly statements prepared for ZUS, broken down by month



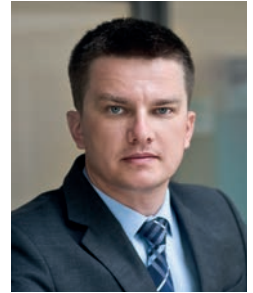
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- ✓ Payment of lump-sum income tax collected in February 2021 on amounts paid to foreign legal entities
 - ✓ Payment of lump-sum income tax collected in 2021 on dividend income and other income from shares in the profits of legal entities, and provision of information CIT-7 to taxable persons
 - ✓ Payment by acquirer of lump-sum income tax for February 2021



CALENDAR

MARCH 2021						
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	31				

- ✓ Filing of declaration on the amount of income from unrealized profits PIT-NZ and PIT-NZS for February 2021 and payment of tax due from declarations filed for the months from January 2019 to February 2021 – if the loss of the asset occurred in February 2021
- ✓ Filing of declaration on the amount of income from unrealized profits CIT-NZ for February 2021 and payment of tax due as indicated in that declaration



PIOTR GRACZ
Head of Business Services & outsourcing department

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



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



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