

BS&O ALERT



Information

Ministry of Finance: structured invoices to start from January

Business operators will only be offered the option to issue structured invoices within the National e-Invoicing System (Krajowy System e-Faktur, KSeF) starting from 1 January 2022, and not from October 2021 as previously announced.

The Ministry of Finance plans to provide taxpayers with a new government system for issuing invoices (so-called National e-Invoicing System, KSeF), which the new legislation calls structured. A draft act on the matter is currently under consultation (the relevant print is marked UD 159). Initially, the draft assumed that the system would become operational on 1 October 2021. Now the start date has been shifted to 1 January 2022.

The structured invoices, issued and made available via KSeF, will function in business transactions as one of the acceptable forms of documenting transactions, alongside paper invoices and the electronic invoices currently used in business transactions. According to the Ministry of Finance, the solution will be voluntary in the initial period. The business operator will be free to decide whether to issue a structured invoice via KSeF or to stick to the current solution.

Early in August, to enable the adaptation of IT systems to the new solution, the Ministry of Finance published a working version of the logical structure of e-Invoice (FA_VAT). It was developed with regard to comments made during tax consultations with business operators. At the same time, a set of sample e-Invoice files has been made available on the National Tax Administration website, showing how to fill in the structure in specific cases.

The system as such is to work so that invoices (all of them, correction invoices included) will be drawn up directly in the taxpayer's financial and accounting programs and forwarded to the system (KSeF) via API (API is a set of rules strictly describing how programs or subprograms communicate with each other).

For this purpose the taxpayer's authentication in the system it will be needed. This will require a qualified electronic signature or signature with a trusted profile.

Once authenticated, the taxpayer will be able to browse the issued and received structured invoices, and to upload in xml format or convert to PDF any invoice or invoice package.



From 2023 on, books and records with need to be sent to tax authorities on regular basis

The government wants all books and tax records to be maintained in the electronic form and sent in a structured form directly to the tax authorities starting from 1 January 2023. This is to enable the tax authorities to remotely check the correctness of tax settlements.

As part of the package of tax changes included in the so-called Polish Deal, the government plans to introduce an obligation for CIT payers to keep their accounting books (tax records) using computer programs, and to send them in a structured form in accordance with the rules laid down in the Tax Ordinance Act, by the deadline for filing the tax return for the specific tax year.

The draft introduces analogous obligations in the PIT Act. Entities conducting business activity will be obliged to keep their books of account, the revenue and expense ledger, as well as fixed asset and intangible accounts (tax books), using computer programs. Business operators will also be obliged to send them in a structured form under the rules laid down in the Tax Ordinance Act. Tax books will be sent monthly, by the 20th day of the following month, in cases where the books and account serve as the basis for determination

of income on which monthly tax prepayments are made. Tax books will be sent quarterly, by the 20th day of the month immediately following the end of a quarter, in cases where the books and account serve as the basis for determination of income on which quarterly tax prepayments are made. After year end, the books will be sent by the deadline for filing a tax return for the specific tax year.

The same rules and deadlines as in the PIT Act will apply to the sending of the revenue registry, as well as the fixed asset and intangible asset account referred to in the lump sum accounting act.

The draft also introduces regulations permitting extension of the scope of data sent in a structured form. The scope of additional data will be specified in regulations issued by the minister in charge of public finance. The additional data will be collected to reduce the business operators' burden related to inspections by allowing the tax administration to verify the correctness of settlements and detect abuse remotely, without the need to carry out on-the-spot activities.

The obligation to keep and send books electronically will take effect on 1 January 2023.



Government wants to introduce tax penalties for hiring undeclared workforce

Starting from 2022, for every month of undeclared employment, the employer's income will be increased by the value of the minimum wage. The employer will also have to pay social security contributions in full, including those normally deducted from the employee's earnings.

As part of the package of tax changes included in the so-called Polish Deal, the government proposes solutions concerning illegal employment, i.e. undeclared workforce and failure to disclose a part of the remuneration. According to the current regulations, illegal employment or another form of gainful work means the hiring of a person by an employer without written confirmation, within a required time limit, of the type of contract concluded and the terms and conditions thereof. Currently, detection of undeclared employment or failure to disclose a part of the remuneration does not exempt the individual concerned from the obligation to settle personal income tax. Similarly, having paid outstanding social security and health insurance contributions, the remitter (employer) has the right to claim from the individual the equivalent of employee-financed contribution paid.

As a result of the proposed amendment, neither an undeclared employee nor an employee whose remuneration is partly undisclosed will bear the tax burden resulting from such circumstances. The income tax consequences will be borne by the employer. The new provision exempts from income tax the individual's income from undeclared employment and from employment relationship in the part in which the employer has not disclosed such income to the competent state authorities. The same is to apply to social security and health insurance contributions. The draft assumes that in case of undeclared employment or understatement of the employee's contribution assessment basis, contributions due on the remuneration of an undeclared employee and on non-disclosed remuneration will be fully financed by the employer. This is intended to encourage undeclared employees to report this fact to state authorities.

Regardless, the draft assumes that for each month of undeclared employment, the employer will be assigned an income equivalent to the minimum wage as at the date of detection of such undeclared employment. Taking into account that the provision would come into force on 1 January 2022, and the minimum wage is to amount to PLN 3,000 as at that date, this means that for each month of undeclared employment, PLN 3,000 per employee will be assigned in 2022. The draft also assumes exclusion of remuneration paid on account of undeclared employment and remuneration paid but not disclosed from tax deductible costs. This way, a dishonest employer will, in a way, will take over the burden of personal income tax on remuneration. Also pension insurance contributions on remuneration for undeclared employment and on the undisclosed part of remuneration will not classify as employer's tax costs despite the fact that they will be financed from own funds of that employer as the remitter of such contributions.



Starting from 23 July, applications for support within the Anti-crisis Shield can be submitted

Beginning 23 July 2021, business operators who run school shops and who have suffered losses due to the COVID-19 pandemic can apply for outage benefits and exemption from payment of contributions. Also tour leaders and tour guides who provide services to museums can count on support from ZUS (Social Insurance Institution).

Business operators who sell foodstuffs, stationery and writing materials to students or pupils on the premises of educational establishments referred to in the Education Act, and whose predominant activity as at 30 September 2020 was marked with the PKD codes 47.11.Z or 47.19.Z, may apply to the Social Insurance Institution for an outage benefit. The outage benefit of PLN 2,080 will be available for months in which the income dropped by at least 40% compared to the income earned in September 2019 or September 2020, but for the maximum of five months. Starting from 23 July 2021, application for the outage benefit (RSP-SK) can only be submitted electronically via the ZUS Electronic Services Platform (PUE). The application should be received by ZUS no later than within 3 months after the month in which the state of epidemic emergency is lifted.

Business operators whose predominant activity as at 30 September 2020 was marked with PKD codes 47.11.Z or 47.19.Z may be exempted from payment of contributions for November 2020, December 2020, January 2021, February 2021, March 2021.

To qualify for this support, income earned by the business operator in the months listed above must be at least 40% less than income earned in September 2019 or September 2020.

Another condition of taking advantage of the exemption from payment of contributions is that the social insurance statement for the period covered by the application must be submitted by 30 April 2021 and the application (RDZ-SK) itself - by 30 September 2021, via the ZUS PUE.

Business operators providing services to museums under the PKD code 79.90.A may also apply for exemption from payment of contributions.

A business operator who wishes to be exempt from contributions for July, August and September 2020 must meet the following conditions:

- registration as contribution remitter before 30 June 2020,
- the income from predominant activity in the first calendar month covered by the application for exemption from payment of contributions must be at least 75% less than the income earned from that activity in the same month of 2019,
- submission of settlement documents for the months indicated in the application no later than 31 October 2021 (unless the business operator was exempt from the duty to submit such documents),
- submission of the application (RDZ-M) no later than by 30 September 2021.



In short:

↓ **The application e-Deklaracje Desktop will only be available until the end of 2021**

As announced by the Ministry of Finance, it will stop providing the e-Deklaracje Desktop application on 31 December 2021. Users who want to access their statements (as well as the Official Acknowledgements of Receipt - UPO) sent by the application can save them as PDF files (using the application's functionality). Statements submitted via the e-Declarations Desktop application in previous years may be necessary in the following cases: filing of returns or statements electronically, both via the Twój e-PIT service available on the e-Urząd Skarbowy website, interactive and online forms, the need to check the correctness of data in statements submitted to

the tax office, and submission of corrections to those statements if required.

↓ **Electronic confirmation on the PUE in August also for beneficiaries**

Starting from 31 July, not only the insured but also the beneficiaries can independently generate electronic confirmations on the ZUS PUE portal. Such a document does not require the signature of a ZUS employee and can be forwarded to the institution that requests it. Beneficiary data confirmation is an electronic document signed with a qualified electronic seal of the Social Insurance Institution (ZUS), which does not require the signature of a ZUS employee. The confirmation may contain information about old age and disability pensions as well as allowances to which

the beneficiary is entitled or the amount of such benefits. Such a document can be forwarded to the institution that requests it.

↓ **ZUS has made information about the balance of the insured person's account available on the ZUS PUE**

The Social Insurance Institution (ZUS) has made available information about the balance of the insured person's account (IOSKU). It can be checked only on the individual profile on the ZUS Electronic Services Platform (PUE). ZUS has not been sending account balance information to the insured in a paper form. To find the account balance information on PUE it is enough to enter the "Insured Person's Panel", select the "Account Balance Information" tab and then "Information for 2020".



The information for 2020 includes the balance of funds both on the account and sub-account with the Social Insurance Institution as at 31 December 2020 (after the annual adjustment carried out in June). For insured persons who turned 35 in 2020, IOSKU also contains a simulation of their hypothetical pension.

↓ **Amortization of the PFR subsidy should be disclosed in the books for the year of such amortization**

The Ministry of Finance explains that from the viewpoint of the Accounting Act, a financial subsidy received by an entity from the PFR meets the definition of liabilities set out in Article 3 clause 1 point 20 of that Act. As at the date of its accrual, such liability is recognized in the books as a liability towards the PFR on account of financial subsidy, in the amount due (Article 28 clause 1 point 8 of the Act), as of the date of that business transaction (cash receipt), based on a bank statement. In the case of amortization of the subsidy amount received (the amortization of that liability is incidental), the books will show a reduction of that part of the liability will be reduced in the books in correspondence with other operating income (Article 3 clause 1 point 32 of the Accounting Act) based on a relevant sour-

ce document, as of the date of that business transactions, in accordance with the terms of such financing.

↓ **Social assistance benefits to increase starting in 2022**

On 14 July 2021, the Council of Ministers adopted a regulation on verified income criteria and amounts of cash social assistance benefits. The higher criteria will become effective on 1 January 2022. The new income criteria entitling to social assistance benefits are as follows: for member of a single-person household - PLN 776 (increase by 11%); for a person living with family - PLN 600 (increase by 14%). This means, among other things, an increase of: the maximum amount of permanent benefit - up to

PLN 719 (increase by 11%); the basis for determining the amount of financial assistance for gaining independence and continuing education as well as in-kind assistance for starting a household - up to PLN 1,837 (increase by 4%); amount of income from comparative fiscal hectare - up to PLN 345 (increase by 12%).

↓ **A person on sick leave must provide the current address**

ZUS reminds that the insured person is obliged to provide the physician issuing the sick leave with his/her address of stay during temporary inability to work, if the address provided in the physician's information profile or contained in the insured person's medical documentation differs



from that person's address of stay while temporarily unable to work. Any change of the address of stay must be reported to the employer and ZUS within 3 days. The regulations in this regard changed on 1 January 2019. Indicating the correct address of stay during a sick leave will make it possible to verify the correctness of sick leaves.

↓ **The National Labor Inspectorate (PIP) has significantly increased the number of inspections**

As follows from data published by the Chief Labor Inspectorate, from the beginning of January to the end of June 2021, PIP inspectors conducted 21,663 inspections. This is over one-fifth more compared to last year. Most inspections were undertaken by the District Labor Inspectorate in Warsaw – 3,013 (last year – 2,137), Katowice – 2,975 (2,499) and in Po-

znań – 1,965 (1,485). District Labor Inspectorates in Zielona Góra – 546 (416), Kielce – 623 (436) and Opole – 722 (531) ended the list. Most inspections were carried out in the construction industry – 4,774 (3,301 during the first half of 2020). Also trade and repairs – 4,458 (4,187) and industrial processing – 3,818 (3,276) were under scrutiny.

↓ **PIP recommends that employees become vaccinated against COVID-19**

The National Labor Inspectorate invariably considers it advisable and reasonable for possibly largest population of employees to become vaccinated against COVID-19. Under current legislation, vaccination is voluntary. At the same time, PIP stresses that according to the Labor Code, it is the duty of the employer to assess and document the occupational risk associated with work performed and to

ensure the necessary preventive measures to reduce that risk. If employees are exposed to harmful biological agents, the employer is obliged to use all available means to eliminate the exposure, and if that is not possible - to reduce the degree of the exposure, making appropriate use of scientific and technological achievements. Vaccination against COVID-19 is crucial in prevention of SARS-CoV-2 coronavirus infections.

↓ **Further changes in the draft remote work regulations**

The latest draft of amendments of the regulation of remote work in the Labor Code meets mainly the expectations of employees. Namely, the legislator provides for extension of the annual occasional remote work limit to 24 days, while the previous draft of the amendments provided for just 12 days. Only the employee will be entitled to suggest occasional remote work by submitting an appropriate application. Also the list of persons whose application for remote work the employer will generally be obliged to grant has been extended. According to the newest version of the draft, the current group of eligible employees (parents) will be extended to include employees taking care of another family member or member of the same household with the disability certificate or certificate of significant or moderate degree of disability.



Interpretations and rulings

One has to choose between attendance benefit and pension

➔ Pension and attendance benefit cannot be paid at the same time. Therefore, a person who meets the conditions for granting such benefit and wants to receive it, should apply for suspension of the pension rights. This will result in withholding its payment, thus eliminating the negative premise. The authority should inform about availability of this solution. This is what the Provincial Administrative Court in Kraków stated in its ruling of 7 July 2021 (Ref. No. III SA/Kr 51/21).

Only the President of ZUS may remit overdue contributions

➔ Decisions in individual cases are made by the Social Insurance Institution and not a Remission Center. Thus neither the manager nor the deputy manager of such center have independent competence to issue decisions on remission of dues on account of contributions. This can only be done by ZUS employees acting by authority of ZUS President, as ruled by the Provincial Administrative Court in Gdańsk on 8 June 8 (Ref. No. I SA/Gd 119/21). As the Court explained, authorization of ZUS employees to issue decisions means that such persons are authorized to sign decisions on behalf of ZUS President and not on their own behalf. This rule remains unchanged despite the fact that ZUS formed the Remission Center within its structure for handling applications for remission of dues on account of contributions.

Co-financed Multisport card for employees not included in contribution assessment base

➔ The co-financing by the business operator of a Multisport card or another similar card

offered to employees will not be included in the basis for assessment of retirement and disability insurance and health insurance contributions if such benefit is provided for in the remuneration rules, the Social Insurance Institution (ZUS) stated in its interpretation of 21 July 2021. (Ref. No. WPI/200000/43/520/2021). It follows from the applicable regulations that social insurance contributions are not collected on income from employment relationship that constitutes a material benefit under collective bargaining agreements, remuneration rules or remuneration provisions if it consists in enabling employees to use items, objects or services against partial payment only.

Purchase of a TV used for videoconferencing at home is a tax deductible expense

➔ In a tax ruling of 19 July 2021 (Ref. No. 0115-KDWT.4011.191.2021.1.KG), the cost of purchasing a TV has been recognized as eligible to be treated as a tax deductible expense. As explained by the tax authorities, purchase of a TV for business purposes meets the requirements to be recognized as a tax deductible expense. In this situation, provided that the initial value of the TV does not exceed PLN 10,000, the purchase qualifies to be recognized as a tax deductible expense for non-agricultural business activities (in the case of more expensive TVs, the cost must be depreciated). This was the answer given to a legal counsel providing legal services to a bank from his home. The TV, he argued, would serve as a large monitor for videoconferencing and for presentation of screen content shared by other team members (so-called screen-sharing). Interestingly, the counsel explained that, as there is no separate room in his apartment for the activity, the TV set will be mounted on the wall in the living room-kitchen, where he performs his official duties.

For summary of further similar interpretations, please consult our Tax Alert.

CALENDAR (most important deadlines)

- ✓ payment for July 2021 of the monthly PIT and CIT advance
- ✓ payment for July 2021 of income tax withholdings from revenues under the employment relationship
- ✓ payment by the parent company representing the tax capital group of tax advance towards tax withheld for July 2021
- ✓ payment of lump-sum CIT-5 tax due
- ✓ payment of tax advance for July 2021 by a real estate company/real estate company's tax representative (PIT-ISN and CIT-ISN)
- ✓ payment of advances withheld in January 2021 (the deadline applies to remitters who suffered negative economic consequences of the COVID-19 pandemic)
- ✓ contribution to PFRON for July 2021



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- ✓ payment of VAT for July 2021
 - ✓ filing of VAT-7, VAT-8, VAT-9M, VAT-12 returns for July 2021
 - ✓ sending of JPK_V7M file for July 2021
 - ✓ sending of JPK_V7K file for July 2021 (records)
 - ✓ filing of VAT-13 return by the VAT agent for July 2021
 - ✓ submission to PFRON of documents relating to subsidies to disabled employees' remuneration for July 2021
 - ✓ settlement of sugar tax due for July 2021
 - ✓ settlement of retail tax due for July 2021



CALENDAR



- ✓ submission to PFRON by disabled persons conducting business activity of the application for reimbursement of old-age and disability pension contributions paid for July 2021



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- ✓ payment of flat-rate income tax withheld in August 2021 on dues paid to a foreign legal person
 - ✓ payment of lump-sum income tax withheld in August 2021 on revenues from dividends and other revenues on account of participation in the profit of legal persons, and providing CIT-7 information to taxpayers
 - ✓ payment by the acquiring company of a lump-sum tax on income arising in August 2021
 - ✓ filing of PIT-NZ and PIT-NZS returns on income from unrealized profit for August 2021 and payment of tax under such returns
 - ✓ filing of CIT-NZ return on income from unrealized profit for August 2021 and payment of tax under such return



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- ✓ payment of ZUS contributions for August 2021 – natural persons paying contributions exclusively for themselves
 - ✓ submission of INTRASTAT application for August 2021

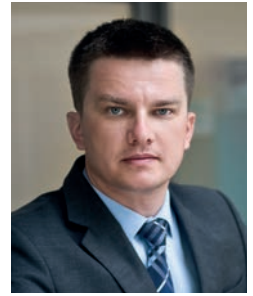


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- ✓ payment of ZUS contributions for August 2021 by other remitters (excluding individuals who pay contributions for themselves only, as well as budgetary units and local budgetary establishments)
 - ✓ payment to PPK for August 2021



CALENDAR

SEPTEMBER 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				



PIOTR GRACZ
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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.