

BS&O ALERT



Information

As of 16 May 2021 occupation codes mandatory in ZUS declarations

As of 16 May, occupation codes must be disclosed in ZUS ZUA and ZUS ZZA documents. The existing declaration forms can no longer be used as of that date.

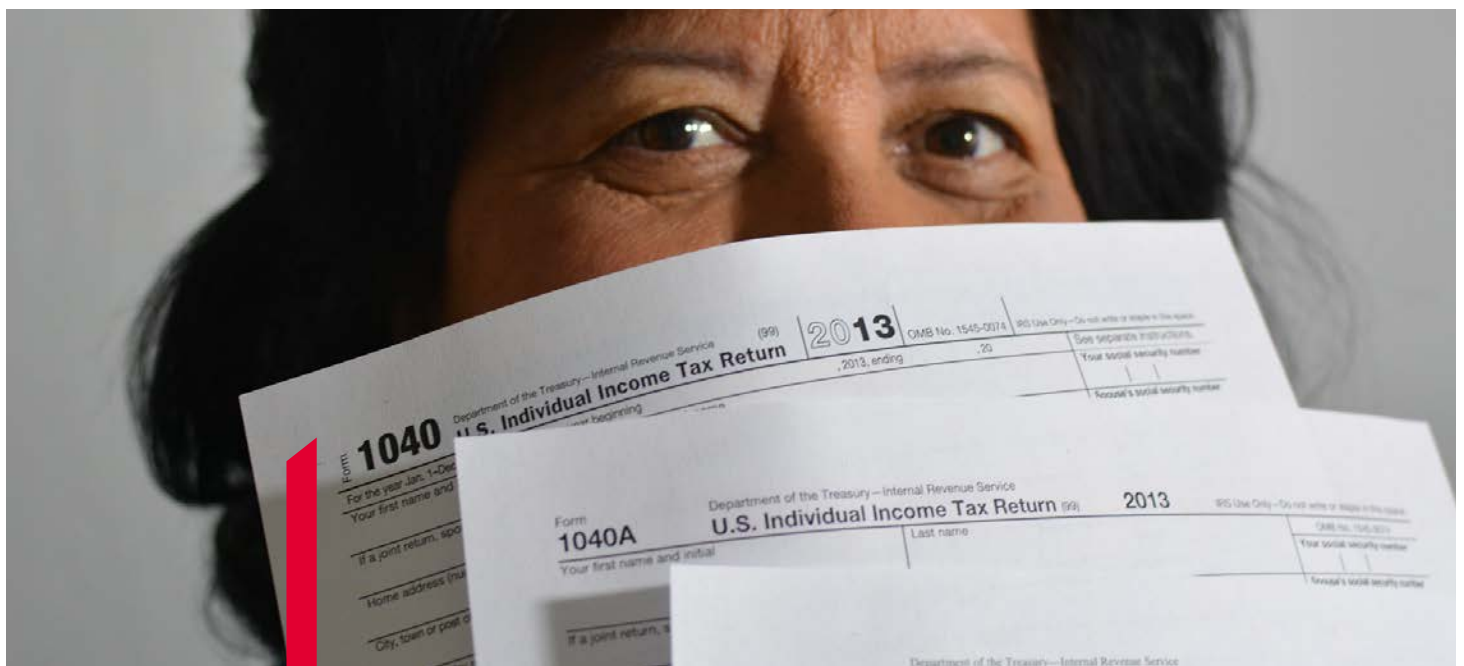
The minister's of family and social policy decree of 23 April 2021 amending the decree on the forms to be used to file submissions to social and health insurance, personal monthly reports and corrective personal monthly reports, remitter's reports, declarations and corrective declarations, work in special conditions reports, information reports, declarations on intention to file information reports, information on concluded service contracts and other documents, has been published in the 5 May Journal of Laws (item 846).

Forms ZUS ZUA and ZUS ZZA have been changed. As of 16 May they will have to include information about the occupation of the insu-

red. In form ZUS ZUA "Submission to insurance/submission of change in insured data", field 01 "Occupation code" in block X will have to be filled in. Whereas in form ZUS ZZA "Submission to health insurance/submission of change in data" in block V, field 02 – "Occupation code" will be added, and the description of block V will be changed to "Insurance title code and occupation code".

The occupation code provided in the ZUS ZUA and ZUS ZZA documents should be consistent with the occupation classification specified in the minister's of labor and social policy decree of 7 August 2014 on the classification of occupations and specialties for the purposes of the job market and the extent of its application (2018 Journal of Laws, item 227).

The decree goes into effect as of 16 May 2021.



As of 4 May you can apply for a ZUS exemption for another two months

Businesses from the industries listed in the latest Crisis Shield can apply for an exemption from the payment of premiums for March and April 2021. They will also be able to use the stand-down benefit as many as five times.

The premium exemption for businesses covered by industry-specific crisis shields currently covers premiums for December 2020, January 2021, February 2021, March 2021 and April 2021.

To use the exemption from the payment of ZUS premiums, the remitter's main area of activity (as at 31 March 2021) must have a PKD 2007 code listed in the Council of Minister's decree of 16 April 2021 amending the decree on supporting traders affected by the COVID-19 pandemic. Three other conditions must also be met. Firstly, the business' revenue from the main area of activity (in accordance with tax regulations) generated in one of the first two months prior to the application date must be at least 40% lower than that generated in the previous month or the same month of last year or in February 2020 or September 2020. Secondly, the remitter must have been submitted as a premium remitter prior to 1 November 2020. Thirdly, the remitter must by 30 June 2021 file the ZUS declarations and personal monthly reports for the period to be covered by the exemption, unless he is exempt from the filing requirement.

Applications RDZ-B7 may be filed as of 4 May 2021 only electronically using the ZUS Electronic Services Platform (PUE), also via the gov.pl website. They must be filed no later than by 30 June 2021.

In addition, under the latest Crisis Shield, businesses may use stand-down benefits in the

amount of PLN 2080 or 1300, once or several times - up to a maximum of 5. This depends on the PKD 2007 code of the main area of activity. To receive stand-down benefits, the remitter must have had an interruption in operations caused by COVID-19, and must meet additional conditions. Applications for stand-down benefits under Crisis Shield 9.0 may be filed as of 4 May 2021 (form RSP-DD7).



Changes in the provisions of the Penal Tax code in effect as of May

Along with amendments to the Excise Tax Act, changes were made in the provisions of the Penal Tax Code. As a result of these changes, the maximum amount of fines imposed by the tax authorities has grown significantly – from PLN 5600 to 14000 as of 1 May.

The 1 May 2021 changes made to the Penal Tax Code through the amendments introduced to the Excise Tax Act provide that more tax offence cases will be resolvable through a fine proceeding. Resolution of a case in this manner may take place in a single contact of the perpetrator with the authorities. Simplifying the procedure will eliminate the need for an indictment in situations when the fine applicable to the given perpetrator exceeds the maximum fine that may be imposed in the form of a ticket.

A condition for imposing a fine in the form of a ticket is the perpetrator's consent to accept

the ticket. This means that the perpetrator may reject the ticket, in which case the matter will have to be resolved in court.

The amendments have also changed Article 48 § 2 of the Penal Tax Code. As a result of the change, the upper limit of a fine for a tax offence that maybe imposed in the form of a ticket. In consequence, as of 1 May 2021 the minimum amount of a fine that may be imposed in the form of a ticket is PLN 280, whereas the maximum is PLN 14 thousand, i.e. five times the value of minimum wage (which is currently PLN 2800). Until now the tax authorities were able to issue tickets that did not exceed twice the value of minimum wage.

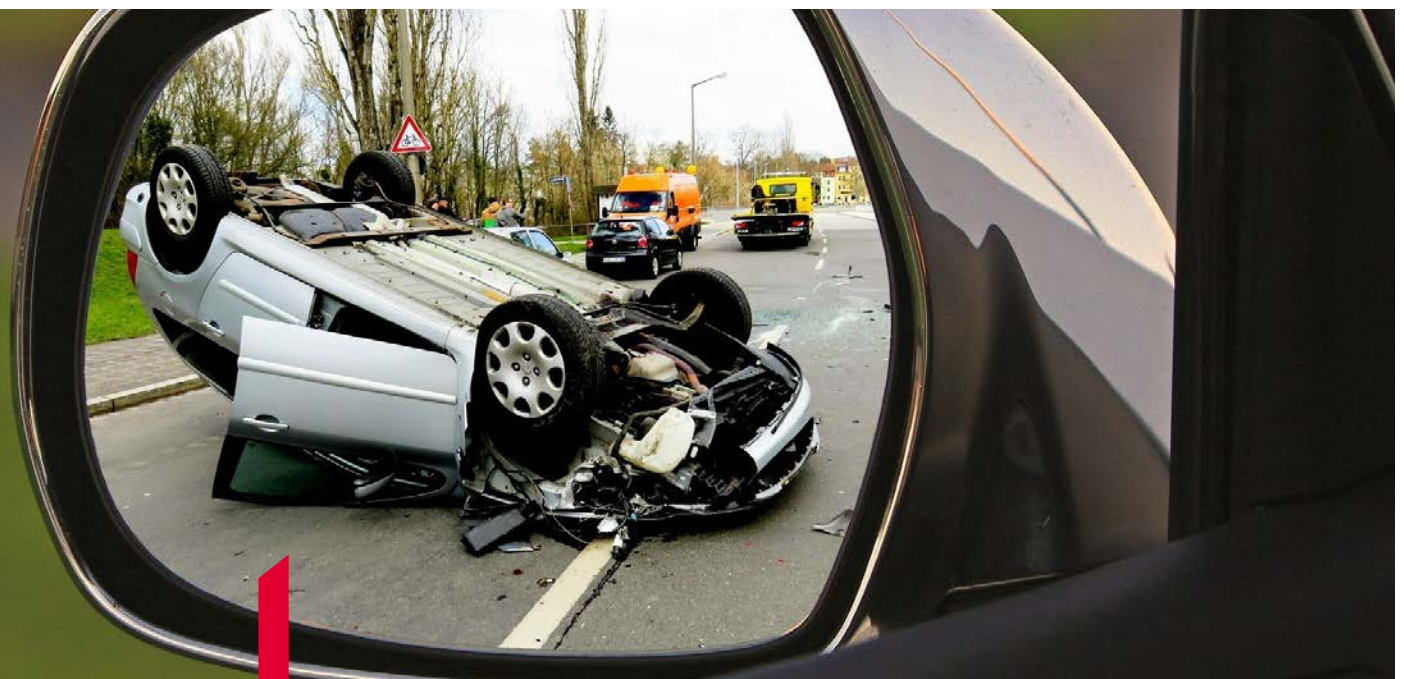
According to the Ministry of Finance, the change in the upper limit of the fine will have no effect on the amount of fines issued for small tax offices, e.g. when a PIT return is filed late.



Employers will be able to check if an employee or service provider is sober

Employers will be able to check their employees for sobriety. This is provided for in a draft of changes to the Labor Code and the Act on sober upbringing and counteracting alcoholism, which has been entered on the list of legislative and program work of the Council of Ministers (UD211). 3rd quarter of 2021 is the planned date for the adoption of a draft of changes in the Labor Code and the Act on sober upbringing and counteracting alcoholism (UD211). The draft primarily provides for changes to the Labor Code, consisting of specifying the legal bases that will enable employers to introduce – for a specific lawful purpose – random sobriety tests for employees, as well as defining the rules for the performance of such tests. The new act will also introduce changes with regard to the employer’s obligation to prevent an employee from performing work. In this area it is expected that: the currently binding regulation that applies when there is a justified suspicion that an employee has come to work after alcohol consumption or consumed alcohol at work will remain in effect; a regulation will be added that will

impose on the employer the same obligation when there is a justified suspicion that an employee has come to work after consumption of a drug that has a similar effect to that of alcohol or consumed such a drug at work; a regulation will be added that will impose on the employer the same obligation when a preventive sobriety check shows the presence of alcohol or drug that has a similar effect to alcohol in the employee’s system. The amendments will also define the bases for the performance of sobriety tests for employees by an authorized body appointed to protect public order. What is more, the new regulations will make it possible to appropriately apply the said solutions to employers who organize the work of individuals on a basis other than an employment relationship, as well as sole traders. Another consequence of the changes will be an addition to the catalogue of reasons for penalizing an employee with a warning, reprimand or a cash fine, of cases when an employee comes to work under the influence of a drug with a similar effect to that of alcohol or consumes such a drug at work.



In short

↓ New excise tax declaration form as of July

The minister's of finance, funds and regional policy decree of 22 April 2021 on declarations on the amount of excise tax withheld and paid by a remitter has been published in the Journal of Laws (item 841). Its provisions introduce a new template for the declaration on the amount of excise tax withheld and paid by remitter (form AKC-P). Declaration on the amount of excise tax withheld and paid by remitter contains the following data: the relevant organ and the purpose of declaration; remitter data; amount of excise tax; calculation of the amount of excise tax withheld on sales of passenger cars; signature of the remitter or the remitter's representative. The decree will become effective as of 1 July 2021.

↓ New regulations define the data contained in ZUS registers

The minister's of family and social policy decree of 2 May 2021 on the detailed scope of data contained in central registers kept by the social insurance office has been published in the Journal of Laws (item 873) of 10 May 2021.

It regulates the data recorded in the following registers kept by ZUS: Central Register of Insured Persons, Central Register of Premium Remitters and Central Register of Open-Ended Pension Fund Members. The decree will become effective as of 16 May 2021.

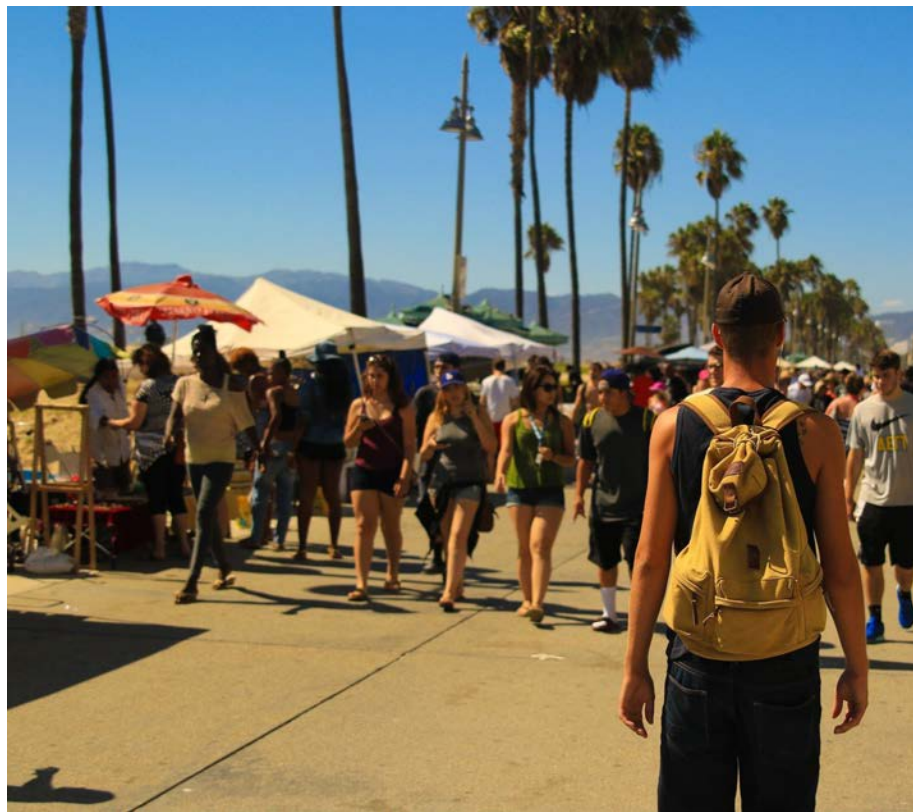
↓ Tax authorities have issued a standpoint on determining tax residence

On 29 April the minister of finance issued tax explanations on tax residence and on the tax liability of natural persons in Poland. Among others, the explanations indicate that the presence in Poland of a center of vital interests means having close personal or economic ties with Poland. Each of the premises is subject to individual assessment, which means that it is enough to

meet any of them for it to be found that a taxable person has his/her center of vital interests in Poland. More on this in our tax alert.

↓ Explanations have been published on SLIM VAT regulations

On 23 April 2021 the minister of finance issued tax explanations on the package of "Slim VAT" solutions and selected solutions that clarify certain VAT structures introduced by the Act of 27 November 2020 amending the Value Added Tax Act and certain other acts (Journal of Laws item 2419). Nearly half of the document is dedicated to the methods used to perform downward invoice adjustments, i.e. when a reduction is made to the tax base or to output tax. The following are also discussed:



export simplifications; standardized exchange rates for VAT, CIT and PIT; deductibility of VAT on the resale of night accommodations; extension to 4 months of the deadline to deduct VAT without adjustment; increase in the value of low-value presents from PLN 10 to 20. More on this in our tax alert.

↓ **Minister of finance explains transfer pricing regulations**

At the end of March the minister of finance issued two sets of tax explanations on transfer prices. The first are "Transfer pricing explanations of 31 March 2021 – number 2: Transfer pricing adjustment as defined in Article 11e of the CIT Act (Article 23q of

the PIT Act". The second are "Transfer pricing explanations of 31 March 2021 – number 3: Comparable uncontrolled price method". More on www.bdo.pl.

↓ **Increasing number of foreigners insured with Polish ZUS**

According to ZUS, in April 2021 the number of insured foreigners was a record 780,5 thousand. That's 15,5 thousand more than in March 2021 and as many as 110,3 thousand more than in February of 2020. The highest increase from March of this year was recorded amongst Ukrainian citizens – by 10,3 thousand. ZUS' data indicate that citizens of Ukraine con-

stitute the largest group of insured foreigners – approximately 75%.

↓ **Additional care allowance extended until 23 May 2021**

An additional care allowance is available since 9 November 2020. The allowance payment period had already been extended until 24 December 2020 and since 28 December 2020. It has now been extended until 23 May 2021. It should, however, be noted that there has been no change in the rules of eligibility for the additional care allowance. There is no eligibility if the other parent is able to provide care (e.g. is unemployed, on parental or child-rearing leave).



Interpretations and rulings

The number of days covered social or health insurance is what counts for relief

➔ The relief provided for in Article 19c par. 11 point 3 of the Social Insurance Act may be used on the condition of having conducted non-agricultural business operations for at least 60 calendar days in the previous calendar year. This number of days is defined as the number of days during which one is covered by social or health insurance as a result of conducting such operations. It therefore does not include the days during which operations were conducted, but the trader was not covered by insurance (in this particular case under British regulations) – explains ZUS in an interpretation issued on 10 May 2021 (WPI/200000/43/385/2021).

No ZUS on laundry cost equivalent for employees and service providers

➔ As explained by ZUS in an interpretation issued on 10 May 2021 (WPI/200000/43/383/2021), the base for the calculation of retirement and disability insurance premiums of temporary employees and service providers does not include the cash equivalent for the cost of laundering workwear. Thus the workwear laundry equivalent, as a value that reflects the actual laundry costs incurred by temporary employees and service providers, will not be subject to premiums when their wages are paid based on an employment contract, or when they are paid based on a service contract.

With full time employment, additional business operations without ZUS

➔ A trader is not subject to social insurance in connection with non-agricultural business operations if at the same time he/she is a full time employee based on an employment contract – states a ZUS interpretation issued on 30 April 2021 (number WPI/200000/43/373/2021). As long as the trader is employed, any additional social insurance titles are voluntary. Whereas health insurance premiums are paid separately under each title, which means that in addition to the health insurance premiums on the employment contract, the trader must also pay such premiums on his/her business operations.

Service provider's ZUS premiums on payments for several months calculated on entire payment

➔ When in a given month a service provider gets paid for a period longer than a month (two or three months), along with an advance towards future remuneration, and the payment is for services performed in Germany and Poland, then the service provider's total income received in the given month should be reduced by the equivalent of the per diem allowances for the time of his stay abroad for which the remuneration is being paid. If the resulting amount is higher than the average remuneration for the given calendar year, then the calculation base is the amount paid. If it is lower, then the premiums calculation base is average remuneration – indicates an interpretation issued by ZUS on 26 April 2021 (WPI/200000/43/330/2021).

CALENDAR (most important deadlines)

- ✓ Payment for April 2021 of monthly PIT and CIT advances
- ✓ Payment for April 2021 of advances collected on employment income
- ✓ Payment by a holding company representing a tax group of the tax advance collected for April 2021
- ✓ Payment of lump-sum CIT-5
- ✓ Payment for April 2021 to PFRON
- ✓ Payment of tax advance for April 2021 by real estate company/real estate company tax representative on income from sale of real estate company rights (PIT-ISN and CIT-ISN)
- ✓ Payment of advances collected by remitters in October 2020 (based on regulations on counteracting the effects of COVID-19)



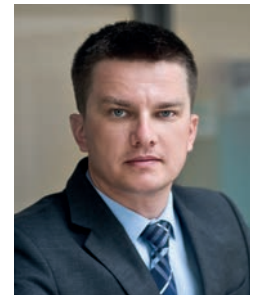
- ✓ Payment of VAT for April 2021
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for April 2021
- ✓ Filing of SAF_V7M for April 2021
- ✓ Filing of SAF_V7K for April 2021 (record section)
- ✓ Filing of VAT-13 by tax representative for April 2021
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for April 2021
- ✓ Reporting of sugar tax due for April 2021
- ✓ Reporting of retail sales tax PSD-1 for April 2021



- ✓ Submission to ZUS of information on the amount of income from gainful employment for the period from 1 March 2020 to 28 February 2021 by persons collecting pre-retirement benefits
- ✓ Last day to create the mandatory Company Social Benefits Fund (transfer to dedicated bank account of at least 75% of basic contributions).



- ✓ Payment of lump-sum income tax collected in May 2021 on amounts paid to foreign legal entities
- ✓ Payment of lump-sum income tax collected in May 2021 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 May 2021
- ✓ Filing of declaration on the amount of income from unrealized profits CIT-NZ for May 2021 and payment of tax due as indicated in that declaration
- ✓ Filing of declaration on amount of income from unrealized profits PIT-NZ and PIT-NZS for May 2021 and payment of tax arising out of the declarations for the months of January 2019 to April 2021 – if an asset was lost in April 2021



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



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



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