

BS&O ALERT



Information

More work breaks and new time off

On 10 January 2023 the government adopted a draft of extensive changes to the Labor Code. Among others, the new regulations set the minimum requirements aimed at achieving equal job market opportunities and treatment of men and women in the workplace. Many of the changes pertain to annual leave and work time.

The amendments to the Labor Code that have been adopted by the government and sent to the Sejm include several significant changes in annual leave and work time. They will introduce two additional breaks included in work time. Employees will be entitled to: a second break of at least 15 minutes as part of work time, if their daily working hours are longer than 9 hours, and a third break of at least 15 minutes as part of work time, if their daily working hours are longer than 16 hours. Changes will also be made to parental leave.

Under the new regulations, female and male employees will have a separate right to parental leave. A father who raises a child will have a right to parental leave irrespective of whether the child's mother remains employed (insured) on the child's birthday. The changes will also introduce a non-transferable portion of parental leave of 9 weeks for each of the parents. The amendments also provide for the introduction of a 70% maternity benefit for the entire period of parental leave for both parents.

Under the new regulations, employees will be entitled to 5 days of unpaid carer's leave per calendar year. This leave will be available to provide personal care or support to a relative (son, daughter, mother, father or spouse) or household member who requires care or support for serious medical reasons. It needs to, however, be pointed out that no remuneration will be paid for such leave.

The amended Labor Code will also provide for time off on account of a force majeure. This leave will be available to take care of urgent family matters and will amount to 2 days or 16 hours per calendar year. This type of leave will be subject to half the remuneration.

The draft indicates that the amendments will provide for more flexibility in the organization of work, including through remote work, flexible work time schedules (flexitime, individual work time, weekend work system, shorter work week and intermittent work time), as well as part-time work.

The new solutions are to go into effect 21 days after their publication in the Journal of Laws.



Government plans numerous changes to employment contract regulations

The government has adopted a draft of Labor Code amendments that will enable employees to legally conclude employment contracts with more than one employer at the same time. This will not apply to only those cases where non-compete agreements have been concluded based on the Code.

At its 10 January 2023 meeting the government adopted draft amendments to the Labor Code with several new solutions relating to employment contracts.

Under the new regulations, an employee who has worked for at least 6 months will have a right to at least once a year request a change in the type of contract - to an employment contract for an indefinite time or more predictable and secure work terms. The employee will also have to be given a written response to his request, along with an explanation. The extent of information about the terms and conditions of employment will be broadened by, e.g. information about the right to training or length of paid leave. This will also apply to employees sent to work in an EU member state or a third country, as well as to posted workers.

The draft amendments will explicitly prohibit barring employees, as a general rule, from simultaneously remaining in an employment relationship with another employer. They will also prevent their detrimental treatment on that account. If this prohibition is breached, the employee will have a right to compensa-

tion at an amount no lower than the minimum wage. This means that employers will not be able to ban employees from simultaneously remaining in an employment relationship with another employer or in a legal relationship underlying the provision of work other than an employment relationship. Legal bases for the provision of work other than an employment relationship consist primarily of civil law contracts, namely contracts for services and specified task contracts. The provisions on simultaneous employment with another employer will not, however, be applied if a non-compete agreement has been concluded as set out in Article 1011 § 1 of the Labor Code. It needs to be stressed that the objective of this change is to implement Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union (OJ L 186, 11.7.2019, p. 105, hereinafter: Directive 2019/1152/EU). After the changes, employees will also be entitled to free training during work hours, as necessary to perform the given type of work or position. This will be possible if the right to such training arises out of the provisions of a collective labor agreement or another collective agreement, regulations or provisions of labor law.

The new solutions are to go into effect 21 days after their publication in the Journal of Laws.



New mileage rates as of 17 January

The government has raised the rates for 1 km of travel by a private car used for company purposes. The new regulations have been published in the 2023 Journal of Laws, item 5, and will go into effect as of 17 January 2023.

Changes in the relevant decree specify the new rates for 1 kilometer of travel by vehicle, used by employers to cover the costs of employee use of private cars for business purposes. In consequence, the rates are to increase quite significantly.

As of 17 January 2023 the mileage rates for private cars used for business purposes will amount to:

- for a passenger car with engine displacement of up to 900 cm³ – PLN 0,89 (PLN 0,5214 prior to the change);
- for a passenger car with engine displacement in excess of 900 cm³ – PLN 1,15 (PLN 0,8358 before);
- for a motorcycle – PLN 0,69 (PLN 0,2302 before);
- for a moped – PLN 0,42 (PLN 0,1382 before the change).

The costs of using vehicles for business purposes are reimbursed in the form of a monthly allowance calculated by multiplying the

rate per 1 kilometer by the monthly mileage limit for local travel, after the employee submits a written declaration of having used the vehicle for business purposes in a given month.

Under the regulations, the monthly mileage limit is set by the employer based on the population of the municipality or city where the employer works, and the said limit cannot exceed: 300 km – up to 100 thousand residents, 500 km – over 100 thousand to 500 thousand residents, 700 km – more than 500 thousand residents. Separate limits apply to employees of the forest service, national parks and rescue services.

The employee's declaration should include information about the vehicle (engine displacement, make, registration number) and specify the number of the employee's absences from work due to illness, annual leave, business trips or other absences, as well as the number of days when the employee did not use the vehicle for business purposes. Reimbursements are made based on a civil law agreement concluded between the employer and employee for the use of the vehicle for business purposes, on terms set out in the regulation.



PLN 45 in business travel allowance in 2023

As of 29 November 2022 new amounts of per diem allowances are in effect for employee business travel, both foreign and domestic. For domestic travel, the allowance now amounts to PLN 45 per day, and the accommodations reimbursement limit to PLN 900 per night.

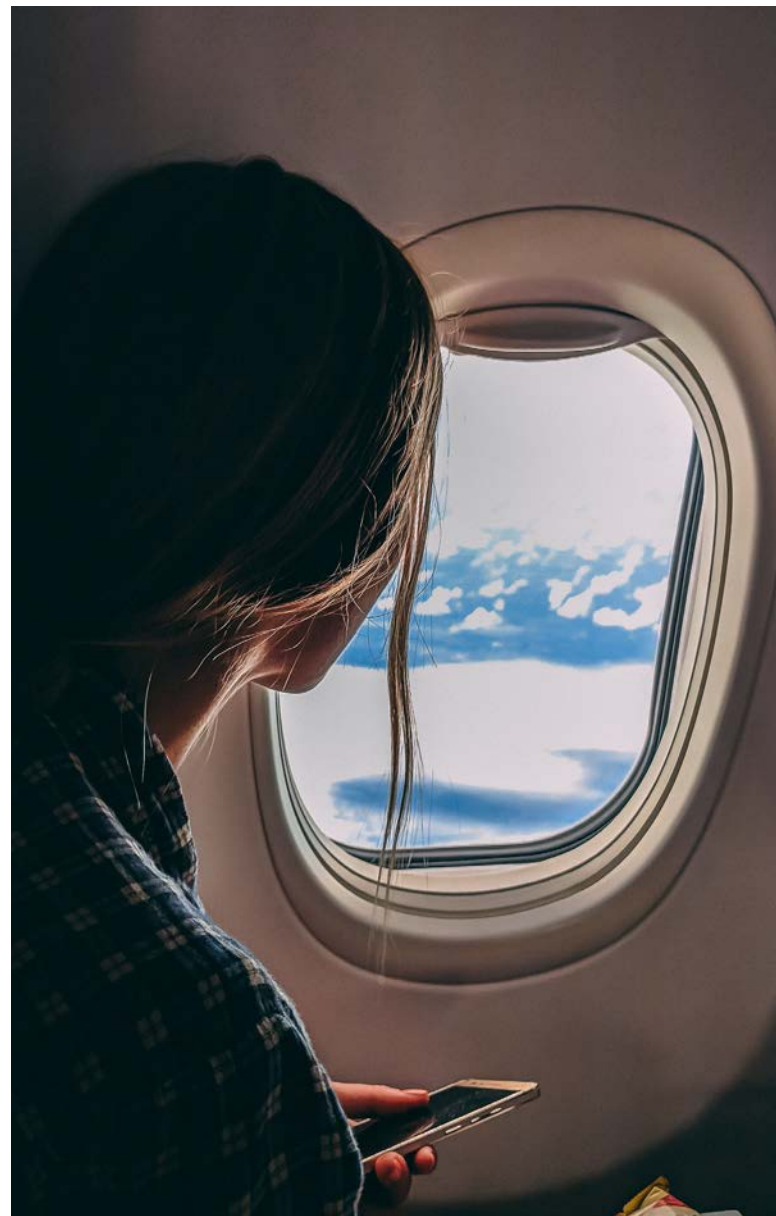
In accordance with the provisions of the decree of 25 October 2022 amending the decree on the amounts to which state or local public sector employees are entitled in connection with work-related travel (2022 Journal of Laws, item 2302), the domestic allowance is PLN 45 per day of travel (previously PLN 38). The new regulations are in effect as of 29 November 2022.

With the new per diem for domestic travel (PLN 45), the 20% flat allowance to cover the costs of local transport amounts to PLN 9 (instead of PLN 7,6), and the allowance for overnight accommodations, constituting 150% of the per diem – to PLN 67,5 (instead of PLN 57). Whereas documented overnight accommodation costs will be reimbursed at the amount billed, no higher however than 20-times the value of the per diem, i.e. up to PLN 900 (instead of PLN 760) per night.

It should also be noted that the decree sets the amounts and methods used to determine the amounts due for business trips for public sector employees. Employers from outside the public sector may set their own terms for the payment of domestic and foreign travel costs through collective labor agreements, remuneration regulations or employment contracts. Regulations in effect at a given employer may provide for the reimbursement of business travel costs on terms that are different than those applicable to public sector employees, on the proviso, however, that they cannot set

a per diem for a domestic or foreign trip at an amount lower than the per diem for a domestic trip set for a public sector employee. If the relevant collective labor agreement, remuneration regulations or employment contract contains no provisions on the reimbursement of business travel costs, the employee is entitled to have his business travel costs covered in accordance with the provisions of the decree.

The same decree also changed the allowance for foreign travel. **This was discussed in previous editions of our alert.**



In short:

Ministry of Finance has updated explanations on youth relief

↓ On 30 December 2023 the Ministry of Finance published explanations on youth relief, i.e. personal income tax relief for natural persons under 26. Among others, they clarify the date up until which the relief may be applied and what new obligations have been imposed in this respect on tax remitters in 2023. Youth relief is an exemption from personal income tax on income from: regular employment; contractual employment based on a contract for services; post-graduate internship; student internship; maternity benefits – received by the taxable person before reaching the age of 26, up to an amount that does not exceed PLN 85 528 in a tax year. [More on this in our tax alert.](#)

Preferential ZUS rates to increase twice in 2023

↓ Some taxable persons can expect their health insurance premiums to increase twice this year. This applies to all those cases where the amount of the premium is contingent on the amount of

minimum wage, i.e. those who conduct business activities and enjoy preferential social insurance premiums for the first 24 calendar months of those operations. Such taxable persons pay premiums on a declared amount no lower than 30% of the minimum wage. [More on this on our website.](#)

Ministry of Finance has published explanations on filing PIT-2

↓ On 30 December 2022 the Ministry of Finance published explanations on the declarations and requests that affect the amount of personal income tax advances calculated by tax remitters. The explanations contain general information on the entities that act as personal income tax remitters, the types of declarations and requests, the methods of their filing and the effects they produce, in the context of the legal regulations in effect as of 1 January 2023. Compliance with the explanations in the reporting period affords the taxable person or tax remitter the protection provided for in the Tax Ordinance. [More on this in our tax alert.](#)

New health insurance premium deduction limits for flat PIT taxable persons

↓ A new limit for the deduction of health insurance premiums for flat personal

income tax was announced by the Ministry of Finance on 12 December 2022 (2022 Polish Monitor, item 1238). According to the announcement, in 2023 the amount of paid health insurance premiums included in tax-deductible costs based on Article 23 par. 1 point 58 of the Personal Income Tax Act of 26 July 1991, or deducted from income based on Article 30c par. 2 point 2 of the Personal Income Tax Act of 26 July 1991, cannot exceed the amount of PLN 10 200 per year (PLN 8700 in 2022). For the second group of traders eligible for the deduction, i.e. those who pay lump-sum income tax, it is still possible to deduct half of the health insurance premiums from revenue.

Those who pay lump-sum tax with more time to file PIT-28

↓ Starting with 2022, PIT-28 and PIT-28S annual tax returns are filed between 15 February and 30 April. This means that the deadline is 2 May 2023. Until now, PIT-28 and PIT-28S were filed from the 15th to the end of February of the year following the tax year. It needs to be noted that lump-sum income tax for December 2022 and the last quarter of 2022 is due by the end of February 2023, i.e. by Tuesday, 28 February 2023. The deadline for the payment of lump-sum tax on registered income for December 2022

and for the last quarter of 2022 was set in a transitional provision of the act that introduces changes to the deadlines for the filing of returns by lump-sum taxable persons. [More on this on our website.](#)

Ministry of Finance reminds tax remitters of the need to enter correct NIP

↓ The Ministry of Finance reminds tax remitters that they are required to enter the taxable person's correct PESEL/NIP in forms PIT-11 and PIT-40A/11A sent to tax offices for 2022. Completed documents are to be sent electronically on the current versions of the forms. Having the correct PESEL/NIP makes it possible for tax offices to unequivocally identify the taxable person. This makes it possible to: generate and

make available to the relevant person his or her tax return in the Twój e-PIT service on podatki.gov.pl, take advantage of the applicable credits and deductions, which may lead to a refund of overpaid tax, as well as log into Twój e-PIT using authentication data that, among others, include PESEL or NIP.

ZUS sending out information on the 2022 balances on premium remitter accounts

↓ On 7 January ZUS began providing account balance information to more than 3,1 million premium remitters. The information will be made available on the remitters' profiles in PUE ZUS. Based on this information, those remitters who collected and paid premiums in 2022 will find out whether their ZUS account shows an overpayment, un-

derpayment or a balance of zero. ZUS will also include information about the amount of payments made in 2022 and what those payments were applied to. Remitters who pay arrears in installments will receive information about any outstanding amount. According to ZUS, underpayments on premium remitter accounts may be paid in installments.

General partners with new title to insurance as of January

↓ As of 1 January 2023, general partners of partnerships limited by shares will be subject to mandatory social and health insurance. For the purposes of such insurance, they will be treated as traders conducting non-agricultural business activities. General partners apply for coverage using an insurance



code starting with the digits 05 43. This means that in 2023 the general partner is required to pay social insurance premium equal to at least the minimum amount provided for those conducting business activities, i.e. PLN 1418.48. Both the general and limited partners are required to pay health insurance premiums, the amount of which is the product of the amount of the average monthly salary from the fourth quarter of the previous year announced by the President of the Main Statistical Office and the rate of 9%.

10 months to prepare the local file and send TPR

↓ Taxable persons who in 2023 comply with transfer pricing (TP) reporting requirements for 2022 will have to

prepare local files by the end of the 10th month following the end of the tax year and send transfer pricing information (TPR) (this information already includes a declaration) by the end of the 11th month following the end of the tax year. This is a result of the changes made in transfer pricing regulations. [More on this on our website.](#)

Remitters have only until the end of January to submit ZUS IWA

↓ 31 January 2023 is the deadline for the submission of information used to determine the accident insurance premium – information ZUS IWA for 2022. This requirement applies to those remitters who meet all of the following conditions: had been registered with ZUS as acci-

dent insurance remitters continuously throughout the period from 1 January to 31 December 2022 and for at least one day in January 2023, reported at least 10 insureds for accident insurance in 2022, had been entered in the statistical REGON register as of 31 December 2022.

There will be a regulation on employee sobriety checks

↓ The Ministry of Health has published a draft of a new regulation on testing employees for the presence of alcohol or similarly acting substances. The changes are to afford employers new capabilities to perform such tests. The new regulations are to go into effect after 14 days of their publication in the Journal of Laws, and are related to the changes to the Labor Code we have described in our earlier alerts, which permit sobriety checks of employees.

Ministry of Finance consults the logical structure of VAT group member records

↓ The Ministry of Finance has begun tax consultations on a template for the logical structure of records kept by members of VAT groups – JPK_GV(1). Opinions on the JPK_GV(1) template may be submitted until 13 January 2023. The structure of JPK_GV(1) that is being consulted relates to changes in value added tax regulations that are going into effect as of 1 July 2023.



Important interpretations and rulings:

Traders cannot profit from overstating the VAT rate

➔ A taxable person who applied an incorrect VAT rate when selling services to individuals and obtained Binding Rate Information that he can apply a lower rate cannot file a correction and request a refund of overpaid VAT. To state otherwise would be to permit the taxable person to unjustly profit at the expense of the consumer and the state budget – indicates an individual tax interpretation issued by a Tax Administration Director on 30 November 2022 (number 0111-KDIB31.4 012.773.2022.2.WN).

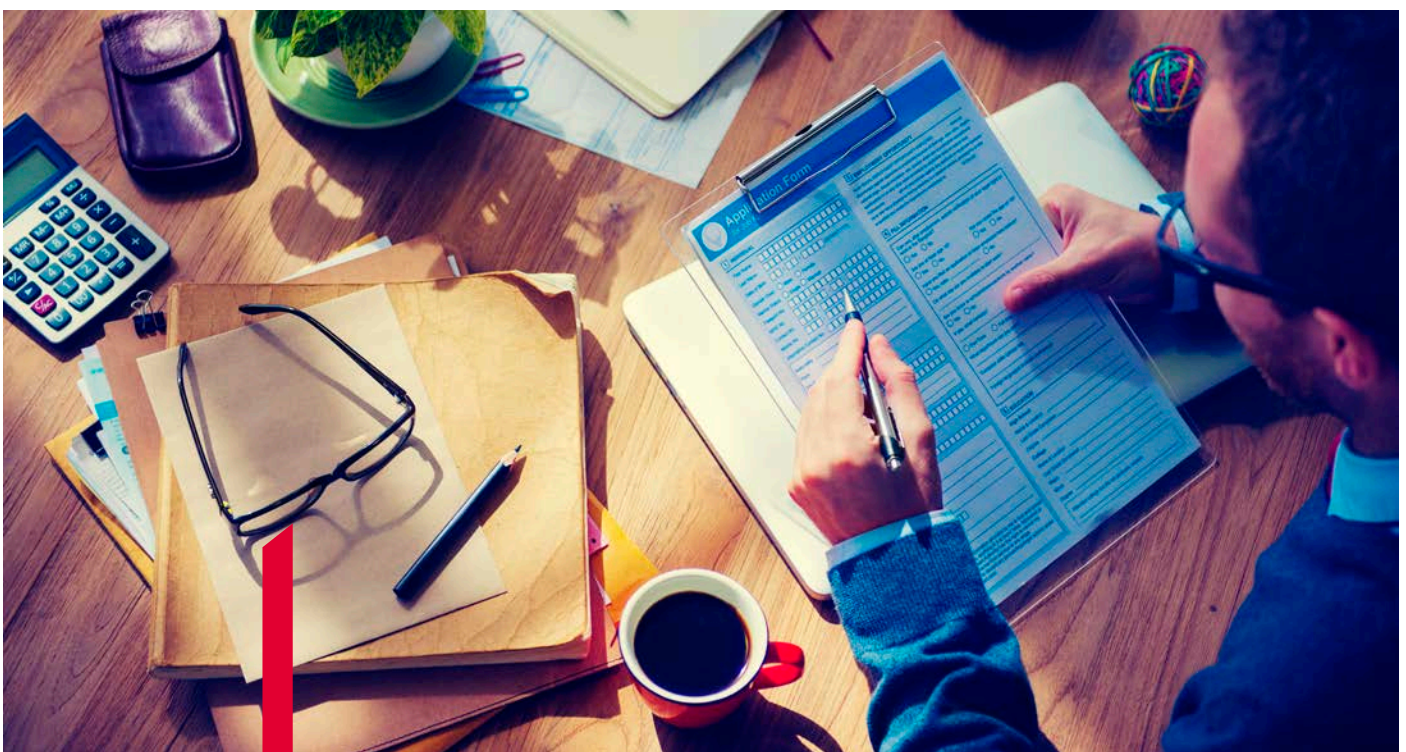
Pre-retirement benefits due while employer's business is wound up

➔ It is not the employer's formal status that determines eligibility for pre-retirement benefits, but rather the loss of a job for reasons attributable to the employer – ruled the District Court in Łódź on 8 December 2022 while granting benefits to an employee who lost his job, following a denial of such benefits by ZUS (case file VIII U 111/22). The court stressed that the liquidation of an employer

takes place when the legal entity is deactivated and the activities performed by the employer completely and actually discontinued. Liquidation is a certain process that includes a formal state associated with deregistering the business from the registration organ, as well as the actual and permanent discontinuation of operations and the resulting dissolution of work relationships with all employees in order to end operations.

Business formed after completion of internship not eligible for reduced ZUS

➔ If as part of a newly formed business a trader starts collaborating with an entity where he had previously completed a post-graduate internship, and the scope of activities does not indicate that the scope of duties previously performed by the intern (a dentist) was different than the scope of activities performed by the business, then that person is not eligible for either the six-month exemption from the payment of ZUS premiums, or the two-year reduced ZUS premiums paid at 30% of the lowest salary – says an interpretation issued by ZUS on 3 January 2023 (number WPI/200000/43/1314/2022).

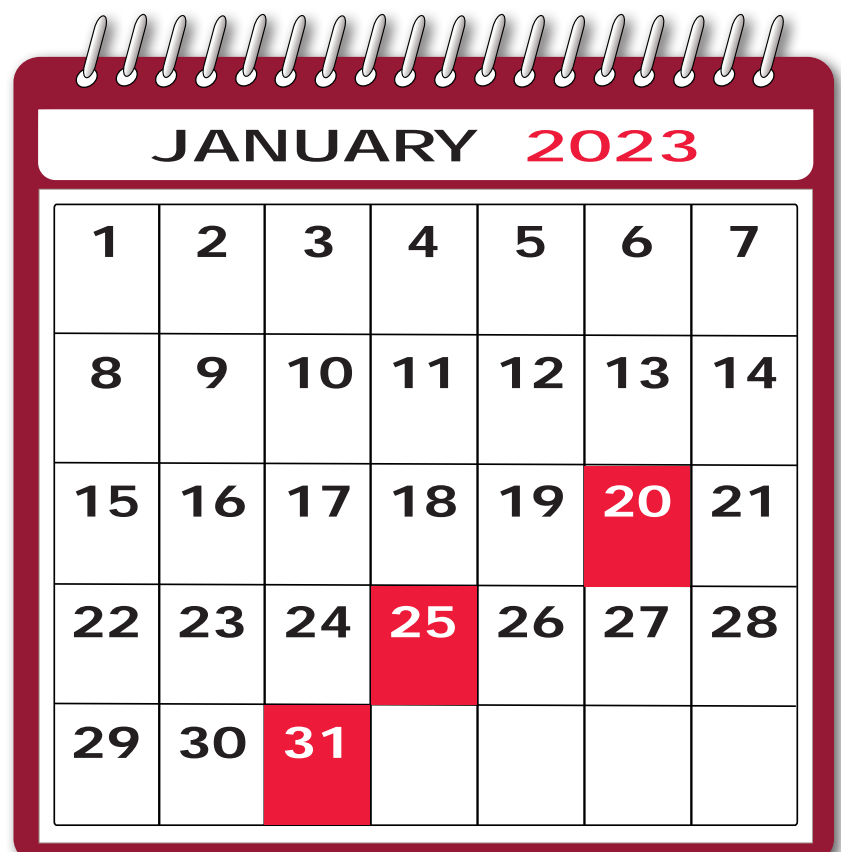


CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for December 2022 - other premium remitters
- ✓ Payment for December 2022 or 4th quarter of 2022 of monthly or quarterly advance for personal income tax and corporate income tax
- ✓ Payment for December 2022 of advances collected on employment income
- ✓ Payment for December 2022 by remitters of advances collected for income tax or lump-sum income tax
- ✓ Payment by a holding company representing a tax group of the tax advance collected for December 2022
- ✓ Payment of lump-sum tax if in December 2022 dividend income and other income from shares of profits of legal entities was spent inconsistently with the purpose specified in declaration (CIT-5)
- ✓ Payment of tax advance for December 2022 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for December 2022 of income tax on income from a fixed asset that is a building
- ✓ Payment for December 2022 to PFRON
- ✓ Submission for 2023 for the purposes of business activity of a written declaration of having chosen lump-sum taxation of registered income or flat-rate taxation – if opting out in 2023 from taxation in the form of a tax card, as well as notification of having opted out of taxation in the form of a tax card – if taxation on the tax scale was chosen for 2023.



CALENDAR



- ✓ Payment of VAT for December 2022
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for December 2022
- ✓ Transmission of SAF_V7M for December 2022
- ✓ Transmission of SAF_V7K for December 2022 (record and declaration section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for December VAT-EU for December 2022
- ✓ Filing by tax representative of VAT-13 for December 2022
- ✓ Reporting of sugar tax for December 2022
- ✓ Reporting of retail sales tax PSD-1 for December 2022
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for December 2022
- ✓ Employers from outside the public sector with fewer than 50 full time employees as at 1 January 2023, not covered by a collective labor agreement and not required to issue remuneration regulations, should in the first month of 2023 inform employees of their decision to not establish a company social benefits fund and not pay a vacation benefit



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- ✓ Payment of property tax for January 2023 – legal persons, organizational entities and companies without legal personality
 - ✓ Submission to the tax office (in electronic form only) of information on revenues from other sources, income and income tax advances collected in 2022 (PIT-11)
 - ✓ Submission to the tax office (in electronic form only) of information on certain capital gains in 2022 (PIT-8C)
 - ✓ Submission to the tax office of notification of having chosen flat-rate taxation of corporate income for the period from 1 January 2022 to 31 December 2025 (ZAW-RD) – if the taxable person's tax year is concurrent with the calendar year
 - ✓ Filing of annual declaration (in electronic form) of income tax advances for 2022 (PIT-4R)
 - ✓ Filing of annual declaration (in electronic form) of lump-sum income tax for 2022 (PIT-8AR)
 - ✓ Filing (to the tax office) of information about amounts paid to taxable person for performing social and civic duties for 2022 (PIT-R)
 - ✓ Filing of property tax declaration for the tax year – legal persons, organizational entities and companies without legal personality
 - ✓ Submission to ZUS of data for 2022 for the calculation of accident insurance premiums (ZUS IWA)
 - ✓ Submission to PFRON by disabled persons conducting business activities of application for a refund of retirement and disability insurance premiums paid for November 2022
 - ✓ Filing of declaration CIT-6AR
 - ✓ Filing of declaration CIT-11R for 2022 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 to the tax office by a tax remitter whose tax year is concurrent with the calendar year of declaration on the amount of collected lump-sum income tax CIT-10Z and CIT-6R
- ✓ Submission (electronically) to the Head of National Tax Administration of transfer pricing information TPR-C, for which the filing deadline passed in October 2022
- ✓ Submission (electronically) to the tax office of a declaration on the preparation of local transfer pricing documentation, for which the filing deadline passed in October 2022 (where the deadline passed in the period from 1 to 31 October 2022, related parties are required to company by 31 January 2023)
- ✓ Filing of VAT declaration relating to import procedure VII-DO for December 2022
- ✓ Filing of VAT declaration relating to non-EU procedure VIN-DO for the 4th quarter of 2022

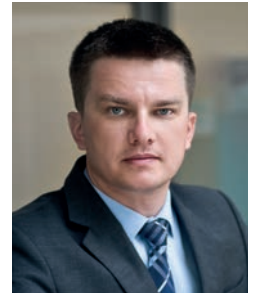
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- ✓ Payment of lump-sum income tax collected in January 2023 on dividend income and other amounts from shares of profits of legal entities, and provision of CIT-7 to taxable persons
 - ✓ Payment by acquirer of lump-sum income tax for January 2023
 - ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for January 2023
 - ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for December 2023 and payment of output tax indicated in the declaration



CALENDAR



✓ Filing of INTRASTAT for January 2023



PIOTR GRACZ
Head of Business
Services & outsourcing
department

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



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