

# BS&O ALERT



## Information

### Act on remote work and sobriety checks adopted by the Sejm

**T**he Sejm adopted regulations introducing the so-called remote work to the Labour Code. Remote work will be possible, *inter alia*, on the employee's request. The regulations also lay down the rules of control of employees' sobriety.

On 1 December 2022, the Sejm adopted the government bill on amendment of the Labour Code and certain other acts. The bill regards permanent introduction of the possibility of

remote work to the Labour Code and provides grounds for the employer to introduce and carry out, whenever required to protect specific interests, preventive checks of employees for presence of alcohol and substances with effects similar to alcohol in their bodies. The act is now in the Senate.

As regards remote work, the new regulations provide not only for a definition of remote work but also specify the groups of employees



that cannot be denied the remote work option as well as the terms of reimbursement of costs of performance of remote work at the employee's place of residence (for more information on this subject, see our other alert available on our website).

The amendment will also introduce regulations concerning employee sobriety checks. The checks will be possible if they are required to ensure protection of life and health of employees or other persons or protection of the property, and the sobriety check itself cannot violate dignity or other personal interests of the employee. The same conditions will apply to employee checks for presence of substances with effect similar to alcohol in their body. The sobriety check consists in a test using methods not requiring laboratory tests, by means of a device having a valid document confirming its calibration. With that, the amendment assumes that care where the alcohol content does not reach or does not lead to reaching values proper for the state under the influence of alcohol (blood alcohol concentration between 0.2 and 0.5 per mille or from 0.1 to 0.25 mg in breath). According to the new regulations, the employer will not allow the employee to work if the sobriety check shows presence of alcohol in the employee's body indicating a state under the influence of alcohol or a state of intoxication.

On request of the employer or employee not admitted to work, the employee's sobriety check can be also carried out by an authority proper for protection of public order.



## E-invoices mandatory as of 2024

**S**tarting in 2024, issue of invoices in the National System of e-Invoices (KSeF) will be mandatory. The bill imposing this obligation has just been referred by the Ministry of Finance to consultations. The mandatory invoices will be also accompanied with new penal regulations.

The Ministry of Finance has commenced public consultations of the bill (UD 468) introducing e-invoicing (introducing the National System of e-Invoices: KSeF) as a universal settlement system come January 2024. It must be noted that entrepreneurs can use KSeF voluntarily as of 1 January 2022. Issue of e-invoices via the servers of the Ministry of Finance is to be mandatory as of 2024. Introducing the obligation to use KSeF, the amendment provides also for fines for failure to meet the obligations introduced in the amended act. The fines will apply if the taxpayer: fails to issue the invoice using KSeF; issues an electronic invoices other than conforming with the available template during a period of failure of KSeF; fails to send the invoices issued during the period of failure to KSeF within the set time limit. In such cases, the head of the tax office can impose, by way of a decision, a fine on the taxpayer amounting up to 100 percent of the value of tax specified in the invoice, and in case of an invoice showing no tax - a fine amounting up to 18.7 percent of the total receivable specified in that invoice. However, the fine cannot be lower than PLN 1000 - if the taxpayer failed to issue an e-invoice or issued an invoice other than conforming with the available template; PLN 500 - if the invoice is not sent to KSeF on time. The fines will have to be paid to the bank account of the proper tax office

within 14 days from service of the decision imposing the fine.

The mandatory issue of structured invoices will apply to taxpayers conducting activities subject to the invoicing obligation under the Polish VAT regulations, having a registered office or permanent place of business in Poland. The rules of issue of e-invoices will be also addressed to taxpayers availing themselves of the so-called subject exemption (small entrepreneurs).

It is essential that the rule saying that an invoice shall be issued on request of the buyer/service recipient submitted within 3 months from the end of the month when the given activity was performed will not change.



## New non-financial reporting rules as of 2024

The EU is planning to introduce a new directive regarding reporting of enterprises in the scope of sustainable development. The directive is to substitute the existing EU regulations concerning disclosure of non-financial information and extend the catalogue of entities obliged to report.

The European Parliament has adopted a new directive on sustainable development that is still awaiting approval by the Council of the European Union. In practice, the new Corporate Sustainability Reporting Directive (CSRD) is to change the existing regulations in the scope of reporting of non-financial information (NFRD). The main assumption is unification of reporting rules and models. The new act provides for more detailed

reporting requirements and obliges large enterprises to publish information on issues related to sustainable development, such as environmental rights, social rights, human rights and corporate governance.

The directive concerning non-financial reporting obliges enterprises to disclose information both on how the issues of sustainable development affect their business performance, standing and development (“outside-to-inside” perspective) and on their impact on people and the environment (“inside-to-outside” perspective), which is often referred to as “double materiality”.

As regards social policy, this involves information concerning: equal opportunities for all, including gender equality as well as equal pay for the same work or work of the



same value; trainings and development of skills as well as employment and integration of the disabled; work conditions, including safe and flexible employment, pay, social dialogue, collective bargaining and involvement of employees, work-life balance as well as a healthy, safety and properly adapted work environment; respect for human rights, fundamental freedoms, democratic rules and norms laid down in the International Bill of Human Rights and other core UN conventions regarding human rights, ILO Declaration on Fundamental Principles and Rights at Work as well as fundamental ILO conventions and the Charter of Fundamental Rights of the European Union.

The new non-financial reporting rules are to cover ca. 50 thousand EU companies in total, although at first the changes will apply to the largest enterprises, having over 500 employees, irrespective of whether they are listed on a stock exchange or not. Furthermore, the scope of the directive will cover also non-EU companies conducting a material business activity in the EU, i.e. companies with turnover exceeding EUR 250 million (EU business turnover).

In the latter case, the obligation consists in publication by the subsidiary of sustainable development reporting prepared by the ultimate parent company from the third country, and if such subsidiaries do not receive the said reporting, they are obliged to prepare and publish such information themselves to the extent they have it or have acquired it, along with a declaration that the ultimate parent company from the third country has not supplied the required reporting. The European Commission will publish a list of companies from third countries that have made their sustainable development reporting available for publication on its website. CSRD imposes similar requirements on large branches set up by entities from third countries. The obligations are to apply to the financial years starting on or after 1 January 2028.

The directive itself will enter into force 20 days after its publication in the Official Journal of the EU. However, the new obligations will become effective only at the beginning of 2024 and, with that, not for all entities. As of 1 January 2024, they will apply to large public interest companies (having over 500 employees) that are currently subject to NFRD. As of 1 January 2025, they will apply to large enterprises that are currently not subject to NFRD (having over 250 employees and/or turnover of EUR 40 million and/or total assets of EUR 20 million) They will apply to small and medium enterprises and other listed enterprises as of 1 January 2026. In the transitional period, small and medium enterprises can use the "opt-out" clause, which means they will be exempted from application of the directive to 2028.



## ZUS profile mandatory for payers of contributions as of 2023

**A**s of 1 January 2023, all payers of contributions will have the statutory obligation to have a profile on the Electronic Service Platform (PUE). The PUE ZUS profile is always set up for a natural person.

Let us start with reminding that the obligation to have a PUE ZUS profile right now applies to payers paying contributions for more than 5 persons. After the changes, this obligation will apply to all entrepreneurs – including owners of small business, i.e. employing less than 5 employees and those who pay the contributions only for themselves. Contribution payers – as we have already discussed in one of previous alters and what we want to remind about today – who do not have a PUE ZUS profile have to set it up until 30 December 2022. Should they fail to do so, ZUS will create a profile for them.

The PUE ZUS profile is always set up for a natural person. The profile can be registered or confirmed only by persons who have attained the age of 13. A contribution payer who is a natural person can create a profile for himself/herself or grant a power of attorney to a third party (e.g. an accountant or an employee of an accounting firm). Entrepreneurs running their business as a natural person will be automatically assigned the role of a payer in the PUE ZUS account by the system if the data in the set-up profile are the same as data provided in the contribution payer registra-

tion application (e.g. NIP (Tax Identification Number), PESEL (Polish Personal Identification Number)). A contribution payer who is a legal person or an organisational unit without legal personality has to act through statutory representatives or representatives appointed according to its articles of association, or it has to grant a power of attorney to, for example, its employee or an employee of an accounting office.

Profile creation requires entering [www.zus.pl](http://www.zus.pl) and clicking a button [Zarejestruj w PUE (Register on PUE)] (on the top of the page). Then, select for whom the profile is created – you can choose registration: [Dla Ciebie], [Dla przedsiębiorców (For entrepreneurs)] and [Dla firm (For companies)]. The registration form differs slightly, depending on the choice you make. If registration [Dla przedsiębiorców (For entrepreneurs)] is selected, in addition to personal data, you also have to enter NIP (Tax Identification Number).

PUE ZUS allows to deal with most matters connected with social insurance at any time and place. Entrepreneurs can file applications with ZUS and use a free app – ePłatnik – intended for handling of insurance documents. They can also check their ZUS settlement status, gain access to sick leaves of their employees, can create electronic documents containing ZUS data and send them to other institutions (e.g. bank or office) by themselves.



## In short:

### **The employer must ensure proper temperature at the workplace for the employees**

↓ According to the applicable regulations, the employer must ensure temperature of at least 14oC in the rooms of the workplace, and in the case of light and white-collar work – the temperature should not be lower than 18oC. If the employer is unable to ensure such work conditions, the employees can stop working, retaining their right to remuneration. Providing warm clothing or warm regenerating meals does not release the employer from the obligation to ensure proper temperature. The employer can, however, introduce remote work.

### **ZUS is reminding about the obligation of monthly filing of DRA declarations**

↓ The Social Insurance Institution (ZUS) is reminding that the obligation of monthly filing of the DRA declaration has been applicable to all entrepreneurs since January 2022. Also those who pay the contributions only for themselves. As the basis for assessment of the health insurance contribution may vary depending on the month, entrepreneurs are obliged to send settlement declarations to ZUS monthly. This obligation applies also to those entrepreneurs whose basis is the same every month. Only the clergymen and people filing documents for babysitters are released from this obligation. Any failure in terms of this

obligation may result in a fine o up to PLN 5 thousand.

### **Regulations on corrections and terms of refunds in PPK have entered into force**

↓ New regulations of the amended act on employee capital plans entered into force on 21 November 2022. The amendment lays down the rules of corrections and time limits for refund of undue PPK contributions. Under the new regulations, undue contribution will be refunded. The financial institution will make the refund within 3 business days from the day of buy-back of the participation units or redemption of settlement units.

### **The limit for earning extra money by retired persons that does not cause pension suspension will be increased**

↓ Persons receiving ZUS benefits and working at the same time, but who haven't attained the universal retirement age yet can earn more extra money for their home budget. As of December, the lower safe limit threshold is increased by over gross PLN 227. From December 2022 to February 2023, the upper limit of safety for earning extra money is gross PLN 4536.50. No additional income not in excess of this amount will cause an old-age pension or disability pension reduction.



### **ZUS is reminding about the new deadlines for correction of settlements**

↓ New time limits for filing of corrections of settlement documents (ZUS DRA, ZUS RCA, ZUS RSA) by contribution payers apply as of this year. ZUS is reminding about it via the ZUS Electronic Service Platform (PUE ZUS). Contribution payers may expect messages in their PUE ZUS profiles. The contribution payer can file corrections of settlement documents for the periods from January 1999 to December 2021 until 1 January 2024 and for the periods as of January 2022 – for 5 years from the deadline for payment of contributions for the given calendar month. After expiry of these time limits, ZUS will not accept any corrections.

### **There will be changes in transfer pricing regulations**

↓ The Ministry of Finance has prepared amendments to the Regulation of the Minister of Finance of 21 December 2018 on transfer pricing documentation in the scope of personal income tax and the Regulation of the Minister of Finance of 21 December 2018 on transfer pricing documentation in the scope of corporate income tax. The changes abolish the obligation concerning preparation of the local file for the so-called indirect tax haven transac-

tions with effect as of January 2021.

### **New version of the VAT-REF form in connection with Croatia joining the euro zone**

↓ As Croatia will join the euro zone on 1 January 2023, a new version of the VAT-REF (5) form has been published to incorporate the currency changes in relation to the periods specified in the application. The form allows to file an application for a value added tax refund for periods regarding 2022 where the current currency – Croatian kuna – will appear automatically. If periods after 1 January 2023 are selected, the euro currency will automatically appear.

### **Tax strategies for 2021 must be published until the end of December**

↓ 31 December 2022 marks the deadline for publication of information on the tax strategy followed for 2021 by taxpayers whose financial year overlaps with the calendar year. The head of the tax office must be notified of the address of the website where the information is published within the same time limit. The potential fine for the failure to submit the notice can be even PLN 250 thousand.

### **SLIM VAT 3 modified after consultations**

↓ The Ministry of Finance has made a new version of the SLIM VAT 3 bill available. It postpones the effective date of the new regulations from

1 January to 1 April 2023. It also introduces several changes proposed during consultations. These include, inter alia, the method of calculation of the exchange rate for collective correction invoices, no obligation to issue advance payment invoices, an exemption for EU investment funds, option to resign from the obligation to print fiscal documents. We would like to remind that as part of the SLIM VAT 3 change package, the tax administration plans, inter alia, to increase the limit for the so-called small VAT taxpayers to EUR 2 million.

### **Certain international daily allowances increased at the end of November**

↓ According to the Regulation amending the regulation on payables for business trips (Journal of Laws item 2302), certain so-called international daily allowances will be increased as of 29 November 2022. Under the new regulations, in the case of a business trips outside the territory of the country, started and not completed before the day of entry of the Regulation into force, i.e. prior to 29 November 2022, the payables due for the business trip are determination: for the duration of the trip prior to 29 November 2022 – under the existing provisions (“old” amounts of daily allowances and limits); for the duration of the trip as of 29 November 2022 – under the new provisions (“new” amounts of daily allowances and limits).



## Important interpretations and rulings:

### **The sugar tax must be paid also on a gratuitous drink**

➔ As stated by the Supreme Administrative Court on 22 November 2022 (case file ref. no. III FSK 811/22), addition of drinks as a free extra to the sold goods in connection with fulfilment of specific conditions by the contractor is not a gratuitous transfer but is a single transaction meaning a reduction of the price of the goods and subject to the sugar tax. The sale is connected with transfer of the ownership title and acquisition by the seller of an equivalent that does not necessarily need to correspond to the value of the object of sale. The equivalent does not have to be expressed in money, it may have a form of a consideration of a different type, including bonuses connected with financial settlement of other purchases.

### **Daily allowances of the owner of a transport company can be charged to expenses**

➔ If expenses resulting from daily allowances for the duration of the domestic and international business trip of a company's owner – a driver – are incurred to earn revenues or to maintain or secure a source of revenues for that enterprise, the entrepreneur can, as a sole proprietor providing transport services personally to another entity and going on domestic and international business trips connected with such services, charge the expenses incurred on that account to tax-deductible expenses, but only in the part not

exceeding daily allowances due to employees – as results from the individual ruling of the Director of the Uniform Tax and Customs Information Centre of 14 November 2022 (ref. no. 0113-KDWPT.4011.34.2022.1.MG).

### **Pay for a sales representative's accommodation not subject to ZUS contributions**

➔ The value of accommodation financed by the employer for the employees travelling between their place of residence, the employer's seat and offices of its customers is not included in the basis for assessment of social insurance contributions of employees – states ZUS in the ruling of 28 October 2022 (ref. no. DI/100000/43/1099/2022). In connection with accommodation used by employees and paid for by the employer, the incurred expenses do not result in a gain on the part of the employees – sales representatives and, thus, the value of accommodation should not be considered a benefit provided by the employer that would give cause origination of the employee's income under the employment relationship.

### **Request for information on taxpayers only in the necessary scope**

➔ The tax authorities can request taxpayers only for information that may affect the origination or value of the tax liability. The scope of information requested under Article 45 of the Act on the National Revenue Administration is excessive and the provision is ambiguous – stated the Supreme Administrative Court in the judgement of 7 December 2022 (case file ref. no. II FSK 1242/22). The Supreme Administrative Court adjudicated that the tax authority substantiated its request for information with the context of events having a direct impact on origination and value of the liability. Meanwhile, the tax authority requested data concerning the method of order placement, persons with whom the orders were arranged, contact details used for order placement, content of arrangements regarding ordered goods.



## CALENDAR (most important deadlines)

- ✓ payment of ZUS contributions for November 2022 – other payers of contributions
- ✓ payment of the monthly personal and corporate income tax advance for November 2022
- ✓ payment of advances collected for income under the employment relationship for November 2022
- ✓ payment of collected income tax advances or lump-sum income tax by the payers for November 2022
- ✓ payment of the tax advance collected for November 2022 by the dominant company representing a tax capital group
- ✓ payment of the due lump-sum tax if the dividend income and other income on share in profits of legal persons was expended in November 2022 not in compliance with the intended allocation specified in the declaration (CIT-5)
- ✓ payment of the tax advance by a real estate company for November 2022 (PIT-ISN and CIT-ISN)
- ✓ payment of the income tax on income on a fixed asset in the form of a building for November 2022
- ✓ payment for PFRON for November 2022



- ✓ payment of VAT for November 2022
- ✓ filing of VAT-8, VAT-9M, VAT-12 declarations for November 2022
- ✓ sending of JPK\_V7M file for November 2022
- ✓ sending of JPK\_V7K file for November 2022 (records-related part)
- ✓ sending of summary information on intra-Community EU-VAT transactions for November 2022
- ✓ filing of VAT-13 declaration for November 2022
- ✓ filing of documents regarding co-financing of salaries of disabled employees with PFRON for November 2022
- ✓ settlement of sugar tax due for November 2022
- ✓ settlement of retail sale tax PSD-1 for November 2022



- ✓ filing of CIT-15J information (along with CIT/JW attachment) with the tax office by a registered partnership having its registered office or management board in the territory of the Republic of Poland, the partners of which are not only natural persons – if the financial year of the partnership overlaps with the calendar year
- ✓ publication by the taxpayer its website of information on the followed tax strategy for 2021 and filing (by means of electronic communication) of information on the website address to the proper tax office – if the financial year overlaps with the calendar year
- ✓ physical inventory count – end of 2022 / beginning of 2023



CALENDAR

DECEMBER 2022						
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				

- ✓ payment of the lump-sum income tax collected in December 2022 on dividend income and other income on share in profits of legal persons, and delivery of CIT-7 information to the taxpayers
- ✓ payment of the lump-sum tax on income originated in December 2022 by the acquiring company
- ✓ filing of the declaration of income on unrealised profits (PIT-NZ and PIT-NZS) for December 2022
- ✓ filing of the declaration of income on unrealised profits CIT-NZ for December 2022 and payment of the due tax disclosed in that declaration



- ✓ filing of the INTRASTAT notification for December 2022



- ✓ Final deadline for valuation of assets covered by physical inventory count



- ✓ payment of ZUS contributions for January 2022  
– payers of contributions having legal personality
- ✓ payment of contributions for PPK



**PIOTR GRACZ**  
Head of Business  
Services & Outsourcing  
Department

## CALENDAR



## 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.*