

BS&O ALERT



INFORMATION

Ministry of Finance wants to restore partial health insurance premium deduction

As of July 2022 the government intends to change several of the provisions introduced under the so-called Polish Deal. One of the new solutions is to be a partial health insurance premium deduction for some traders. The amendments that have been prepared and presented for public consultations by the Ministry of Finance (hereinafter referred to as Polish Deal 2.0) provide that the government will in a sense restore the deduction of premiums, but only for three groups of taxable persons: those who pay flat-rate PIT, lump-sum tax on registered income and those using the tax card.

Those who pay flat-rate PIT are to become eligible to deduct health insurance premiums from their income (and not, as was the case in 2021 from tax), the same way that they currently deduct ZUS premiums (alternatively, they may be charged to costs). This deduction (costs) is to be limited to no more than PLN 8700 per year, which means that those taxable persons will see an annual tax decrease of PLN 1653.

The limit is to be revalued each year. It is to be set at 4,9 percent of the so-called thirty-fold, which caps the ZUS premium calculation base. This year it amounts to PLN 177 660. Thus the limit of PLN 8700. The cap will be revalued each time there is a change in the thir-

ty-fold (rounded off to PLN 100). It is determined as thirty times the value of the projected average monthly wage (for 2022 it amounts to PLN 5922, thus the cap of PLN 177 660).

Lump-sum tax payers will be able to deduct half of their health insurance premiums from their income. It needs to be remembered that in their case the premium is still one of the three lump-sum amounts that depend on the revenue threshold they fit in.

In consequence, for annual revenues of PLN 60 000 the premium calculation base amounts to PLN 3732,62, and the premium itself to PLN 335,94. For revenues from PLN 60 thousand to PLN 300 thousand a year, the premium calculation base amounts to PLN 6221,04, and the premium to PLN 559,89. Those with revenues in excess of PLN 300 thousand will have their health insurance premium calculated on PLN 11 197,87 and it will amount to PLN 1007,81. As a result, lump-sum taxable persons will be able to deduct the following amounts in 2022: if their annual revenues do not exceed PLN 60 thousand – PLN 167,97 per month; if their annual revenues fall between PLN 60 and PLN 300 thousand – PLN 279,96 per month; and for annual revenues that exceed PLN 300 thousand – PLN 503,90 per month.

Tax card taxable persons will be able to deduct 19% of health insurance premiums paid.

Tax remitters with numerous new obligations and new collection of PIT-2

As part of the amendments to the Polish Deal, the Ministry of Finance plans to make several changes to remitter obligations and to introduce the requirement for the declarations submitted by taxable persons to tax remitters to be made in writing. Tax remitters can also expect to have to collect new PIT-2 declarations.

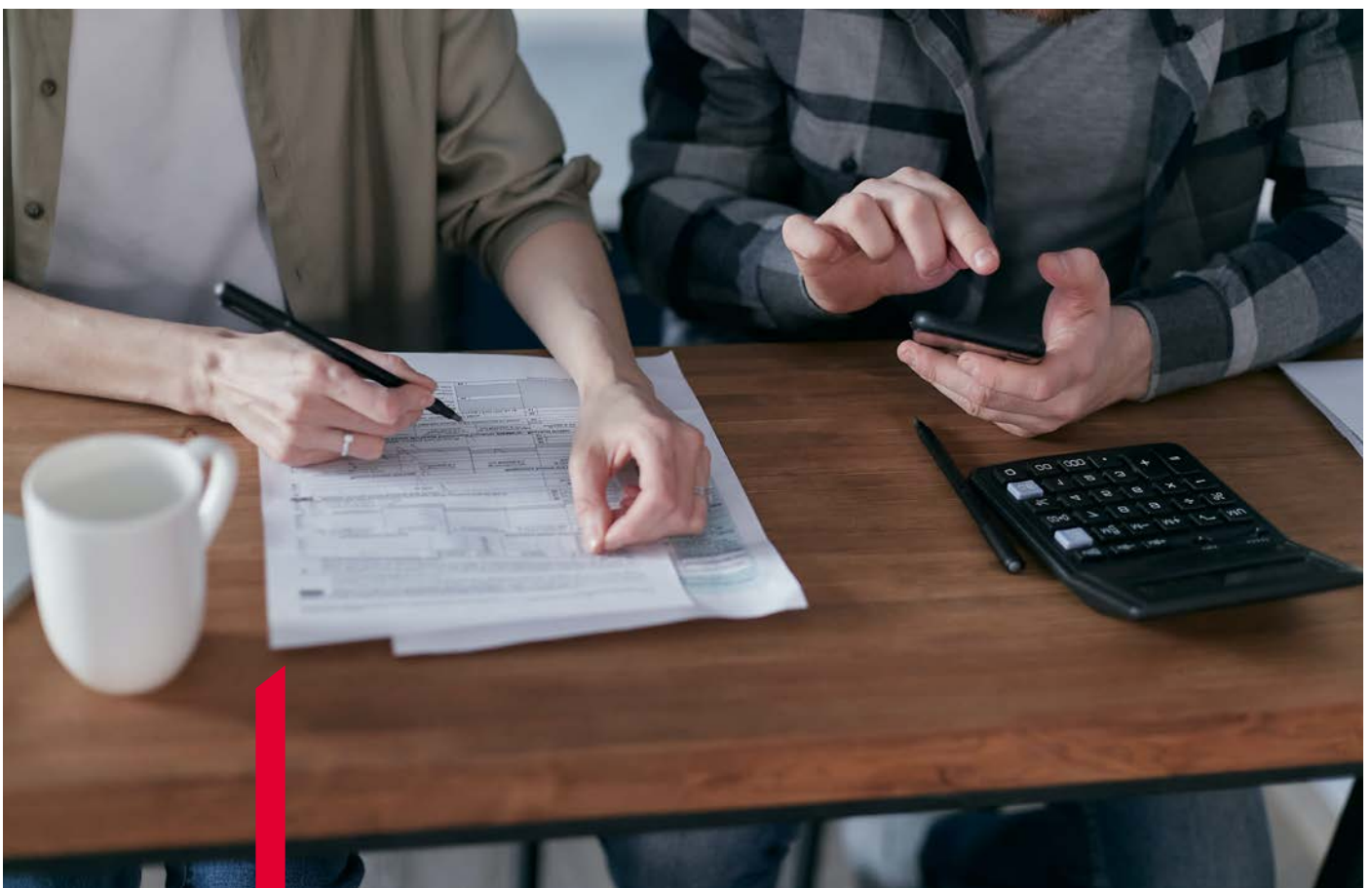
On 24 March 2022 the Ministry of Finance presented for public consultation a draft of extensive changes to the provisions of the so-called Polish Deal (Polish Deal 2.0, which the prime minister referred to as the anti-Putin shield). The vast majority of the new regulations are to become effective as soon as 1 July 2022. Some of those that apply to tax remitters will go into effect as of their publication in the Journal of Laws.

Under the new provisions, a tax remitter that establishes a new employment relationship (e.g. contract of employment, contract to manage a business, managerial contract) will be required to initiate the filing by the hired

taxable person of a request (declaration) on the tax remitter's application of the monthly standard tax deduction and on the deduction of health insurance premiums when calculating tax advances. Until now this requirement had not been formulated in the PIT Act.

Tax remitters will also be obligated to ask their employees (or other persons) to update their previously filed PIT-2 declarations. This will have to be done by no later than 15 June 2022. Employees who fail to respond by 30 June 2022 will be deemed to have decided to continue on current terms, i.e. for example that the tax remitter continues to treat everything as if he were the taxable person's only tax remitter and continues to apply 1/12 of the standard deduction.

This is because of the new rules that the amendments are to introduce. A taxable person on behalf of whom PIT advances are being remitted by the tax remitter will now be able to declare that their standard tax deduction is to be taken by not just one, but by even as



many as three tax remitters, so that a given tax remitter will deduct either 1/12 of the standard deduction (PLN 300), 1/24 (PLN 150), or 1/36 (PLN 100), depending on what the taxable person declares. The amounts of the new standard deductions are the result of the planned decrease in the first threshold tax rate from 17 to 12%.

The planned amendments provide for lifting as of 1 July 2022 of the requirement imposed on tax remitters to in the course of 2022 calculate tax advances also in accordance with the regulations in effect until the end of 2021, i.e. for lifting the so-called rollover mechanism implemented in the legal system by way of the minister's of finance decree of 7 January 2022 on extending the deadline for the collection and payment of personal income tax advances by certain tax remitters (Journal of Laws item 28; the mechanism is currently regulated by Article 53a of the PIT Act).

A taxable person will also be able to authorize his tax remitter, with a written request, to not withhold advances in a given tax year. This solution will as a rule apply to all income tax remitters. A taxable person will be able to submit such a request if he expects that his income taxable on the tax scale will not exceed PLN 30 thousand (or the tax-free amount) in the tax year. But the taxable person will be required to immediately withdraw the request if he determines that his income will exceed this amount. Once the taxable person withdraws his request to not withhold advances in a given tax year, the tax remitter will calculate the advances, but will not reduce them by the monthly standard deduction. The amendments will also introduce a rule whereby all the taxable person's declarations and requests that affect the calculation of the advances must be submitted to the tax remitter in writing.



Changes will be made in employee pension plans

Amendments to the Act on employee pension plans have been submitted to the president for signature. Their objective is to facilitate the operation of PPE by employers. They also make changes to the regulations on IKE and IKZE.

Under the amended regulations, performance of administrative obligations will rest with the financial institutions that operate employee pension plans, as they have the necessary technical infrastructure and human resources. As a result, the obligation to prepare information on the performance of the plans, filed each year with the supervisory authority, will be transferred from the employer operating the PPE to the manager of the PPE, as will the obligation to report changes in the data of the plan manager.

In addition, the amendments provide for simplifying the manner in which employers conclude agreements with employee representatives on suspending the payment or limiting the amount of basic PPE contributions by waiving their registration by the supervisory authority. Under the amended regulations, instead of a registration procedure the conclusion of such agreements will be subject to a notification procedure that will not require the issue of an administrative decision. At this time, an agreement on suspending the calculation and payment of contributions or on tempora-

rily limiting their amount can only take effect after a relevant administrative decision is issued by the supervisory authority. The amendments replace the registration procedure with a notification procedure, where the employer will only report the conclusion of an agreement and at the same time provide a copy thereof.

The amendments also introduce favorable changes in the conditions of participating in a plan, i.e. the lifting of an optional ban on making additional contributions. At this time, additional contributions may only be made if this is not prohibited by the company agreement. The amendments will also allow for diversifying the sources of financing of additional plan contributions. Participants will be able to make additional contributions from sources other than wages for periods during which they received no wages from their employer. This solution will make it possible to make additional contributions for periods of absence from work (e.g. when on parental leave). The new regulations will also institute "portability of funds", by providing its definition, timing and rules for the transfer of funds. Under the new regulations, "portability" will mean the transfer by an existing manager of funds accumulated in a plan to a new manager in connection with a change in the form of the plan or its manager. The proposed rules will regulate the transfer of funds when there is a change in the form of the plan or in the plan's manager. By providing a statutory deadline for such transfers to occur, the regulations will prevent plan managers from holding funds accumulated in a plan for excessively long periods of time, which did take place in some cases.

In addition, the amendments provide for changes in the regulations that define the rules for suspending and limiting the amount of basic contributions in order to eliminate interpretative concerns relating to the application of those regulations, as well as changes in the Act on IKE and IKZE.



New workers' compensation rates as of April

New, higher workers' compensation rates are in effect as of 1 April 2022. PLN 1133 is now paid for each percentage of permanent or long-term health impairment. While providing the new amount of compensation for work related accidents at PLN 1133 for each percentage of permanent or long-term health impairment, the Social Insurance Office reminded that in 2021 it had amounted to PLN 1033, and in 2020 - to PLN 984. Any insured worker who suffers a permanent or long-term health impairment as a result of an accident at work is entitled to one-time compensation. Such compensation is also payable to eligible family members of a worker who died as a result of a work related accident or occupational illness. The amount of such one-time compensation is 20% of the average monthly salary for each percentage of permanent or long-term health impairment. The new workers' compensation rates are in effect from 1 April 2022 to 31 March 2023 and amount to:

- PLN 1133 for each percentage of permanent or long-term health impairment;
- PLN 1133 for each percentage of permanent or long-term health impairment, when such impairment has increased by at least 10 percentage points;
- PLN 19 819 when an insured has been declared totally incapacitated for work and unable to exist independently;
- PLN 19 819 when a disability recipient has been declared totally incapacitated for work and unable to exist independently as a result of a deterioration of his/her health;
- PLN 101 926 when it is the spouse or child of a deceased insured or disability recipient that is entitled to the one-time compensation;
- PLN 50 963 when it is a family member other than the spouse or child of a deceased



- insured or disability recipient that is entitled to the one-time compensation;
- PLN 101 926 when it is simultaneously the spouse and one or more children of a deceased insured or disability recipient that are entitled to the one-time compensation, and PLN 19 819 in additional compensation for each of those children;
- PLN 101 926 when it is simultaneously two or more children of a deceased insured or disability recipient that are entitled to the one-time compensation, and PLN 19 819 in additional compensation for the second and each subsequent child;
- PLN 19 819 when in addition to the spouse or children, other family members of a deceased insured or disability recipient are entitled to the one-time compensation; each is entitled to this amount, irrespective of the amount of compensation due to the spouse or children;
- PLN 50 963 when only family members other than the spouse or children of a deceased insured or disability recipient are entitled to the one-time compensation, and
- PLN 18 086 in additional compensation for the second and each subsequent eligible recipient.

In short:

↓ Information about accident insurance premiums sent to remitter accounts

On 1 April 2022 premium remitters received information in their ZUS Electronic Services Platform (PUE) accounts about the percentage rate of their accident insurance premium for the 2022/2023 contribution year. Those who have not submitted ZUS IWA for the last three consecutive years, even if they did submit it for 2021, must on their own determine the percentage rate of the accident insurance premium that applies to them as of 1 April 2022.

↓ As of April, A1 certificates issued only in electronic form

As of 1 April 2022 requests for A1 certificates are to be submitted to the Social Insurance Office only in the form of electronic documents using the ZUS Electronic Services Platform (PUE). An A1 certificate confirms social insurance coverage in Poland. Certificates issued by ZUS

will be made available to the applicant on his/her PUE ZUS profile. Electronic A1 certificates can be printed out, and the printout is an official document as defined in the Code of Administrative Procedure. Where ZUS refuses to issue an A1 certificate, it will issue a relevant decision. The decision will also be accessible via the applicant's PUE ZUS profile.

↓ New interest rate for late transfer of contributions to a pension fund

On 16 March 2022 the President of ZUS issued an announcement on the amount of interest due for failure to transfer contributions to an open-ended pension fund on a timely basis. It indicates that based on Article 47 par. 10j of the Social Insurance System Act of 13 October 1998 (2021 Journal of Laws, item 423 with subsequent amendments), in the period from 1 April 2022 to 30 June 2022 the amount of interest due for failure to transfer contributions to an

open-ended pension fund on a timely basis is 2,12%.

↓ Regulations extending CIT return filing deadlines already in effect

On 17 March 2022 the minister of finance signed a decree extending the deadlines for the performance of certain obligations relating to corporate income tax. The extension of the 2022 deadlines applies to all corporate income tax taxable persons, including those who pay a flat-tax on corporate income. Under the decree, the following deadlines have been extended until 30 June 2022: for the filing of information about the amount of income earned (loss incurred) and payment of the resulting tax (CIT-8, CIT-8AB); information about the amount of income earned and flat-tax due on corporate income (CIT-8E); information about revenues, costs and income from a transformation in tax returns filed by persons taxable with flat-tax on corporate income.

↓ Real estate companies with more time to file information

The deadline for the submission of information by real estate companies has been extended. The relevant decree has been published in the Journal of Laws under item 709 and is in effect since 31 March 2022. In accordance with statutory provisions,



information is to be filed by the end of the third month after the end of the real estate company's tax year or financial year (when the company is not taxable with income tax). The decree extends until 30 September 2022 the deadline for the filing of information by real estate companies whose tax year or financial year ended in the period from 31 December 2021 to 31 May 2022, as well as by PIT and CIT taxable persons with rights to those real estate companies, who under the provisions of the PIT and CIT Acts are required to file such information.

↓ **New exemption from flat tax on corporate income**

The minister of finance has issued a decree on waiving the collection of flat tax on the income of companies that provide humanitarian aid to citizens of Ukraine. The decree waives the collection of flat tax on corporate income in respect of expenses unrelated to business operations incurred in connection with the transfer in the form of donations or with the provision of free services to the entities listed in Article 38w par. 1 of the Corporate Income Tax Act of 15 February 1993, in order to counteract the effects of the war in Ukraine. The wa-

iver applies to donations made and free services provided in the period from 24 February 2022 to 31 December 2022.

↓ **Government wants to collect ZUS on all contracts and introduce a uniform contract**

In the first quarter of 2023 the government wants to start collecting ZUS premiums on all service contracts, irrespective of the amount of revenues earned. It has added this intention to its National Reform Plan 2022/23. This means that contractors would receive 13,71% less in take home pay. The burden on employers would also go up. Each EU member state is required to submit its plan for economic and social changes to the European Commission by the end of April. In Poland it is the Ministry of Technology and Entrepreneurship that is in charge of the National Reform Plan 2022/23. For those working on the basis of employment contracts, the plan calls for the introduction of a so-called uniform contract. It does not, however, explain what this concept entails.

↓ **Changes in decrees on transfer pricing documentation**

The Ministry of Finance has changed the decrees on transfer pricing documentation to adapt them to the exemptions for micro and small businesses introduced under the Polish Deal. Two decrees on transfer prices have been published in the Journal of Laws: on cor-

porate income tax (item 778) and on personal income tax (item 777). Under the changed decrees, when it comes to the financial and tax information of a group, group transfer pricing documentation will have to contain a list and a brief description of not only unilateral advance pricing agreements issued for the group's related parties, but also of investment and tax agreements.

↓ **New consolidated text of the Retail Sales Tax Act published**

The new consolidated text of the Retail Sales Tax Act has been published in the Journal of Laws (item. 761). Among others, the text reflects the changes made through the Act of 9 December 2021 amending the Excise Tax Act and certain other acts, i.e. the provisions on the exemption from retail sales tax of gasolines, diesel fuels, bio-components that constitute self-contained fuels and gases used as engine fuels in the period from 1 January 2022 to 31 May 2022.

↓ **Income tax SAF transmission deadline to be moved**

The deadline for the transmission of standard audit files (SAF) containing electronic copies of the books kept for income tax purposes will be moved from January 2023 to the years 2024-2026 - indicates a draft of changes to the Polish Deal shared by the Ministry of Finance. The new deadlines for the transmission of tax books to the tax autho-

rities would be: from January 2024 – CIT taxable persons with more than 50 million euro in prior year revenues; from January 2025 – CIT and PIT taxable persons required to transmit SAF-VAT records; as of January 2026 – all other CIT and PIT taxable persons.

↓ **APA-C filing deadline extended until the end of June**

The Ministry of Finance has announced that the deadline for the filing of reports on the performance of APA (form APA-C) has been changed following an extension of the deadline for the filing of the information on the amount of income earned (loss incurred) in the financial year – CIT-8. In accordance with the minister's of finance decree of 17 March 2022 on extending the deadlines for the performance of certain corporate income tax obligations (2022 Journal of Laws, item 639), the deadline for the submission of

information on the amount of income earned (loss incurred) in the tax year ended in the period from 1 December 2021 to 28 December 2022 has been extended to 30 June 2022.

As a result, the deadline for the filing of APA performance reports (form APA-C) has by law also been extended until 30 June 2022.

↓ **New recommendations from Accounting Standards Committee**

The Accounting Standards Committee has issued recommendations for financial statements and management reports prepared during Russia's invasion of Ukraine. The recommendations stress that the war in Ukraine may affect the financial position of entities, including in particular their liquidity and profitability, which may lead to radical changes in the business model of some entities. Assessing the enti-

ty's position and its environment in uncertain conditions becomes a key matter. All of this has specific financial and accounting consequences.

↓ **There will be changes in regulations on special work conditions**

The Act on 9 March 2022 amending the Bridging Pensions Act and certain other acts has been sent to the president for signature. Aside from changes to pensions, it also introduces changes to the inspection of records of those employees who work in special conditions or perform work of a special nature. The act amends the National Labor Inspection Act by broadening the Inspector's tasks to include inspections of those positions where employees work in special conditions or perform work of a special nature, as well as inspections of the records of such employees.



Important rulings and interpretations:

➡ Tax case files must be provided whenever a party requests them

The tax authorities are not required to provide a case file whenever a party requests it. The right to access is subject to limitations when it comes to classified information, as well as other documents excluded by the authority from the case file due to public interest. The rights of third parties who are not a party to the proceedings must be protected – indicates a ruling issued by the Supreme Administrative Court on 15 March 2022 (case file III FSK 402/21). Where a tax authority conducts a proceeding involving several parties, it should provide those parties with materials that apply to their common situation within the limits set out by the subject matter of the case, and without limits the materials that relate to the party requesting access; where, however, the scope of the materials obtained from various parties exceeds the framework of the facts they have in common, the tax authority is required to keep confidential the data that are not common to the parties – explained the Court.

➡ Expenses for per diems and food for employees can be charged to costs

Expenses for per diems and food incurred by a trader for the benefit of his employees can be claimed as tax-deductible costs – indicates an interpretation issued on 10 March 2022 (number 0111-KDIB1-1.4010.561.2021.4.EJ). As stressed by the Director of National Tax Information, although staff costs consist primarily of wages and salaries, all types of awards, bonuses and allowances, expenses incurred to raise professional qualifications, reimbursements of business travel and accommodation costs, they may also include other expenses

incurred for the benefit of employees, such as those incurred for the purchase of food.

➡ Properly documented expenses for subcontractor's employees are a cost

Expenses incurred by a trader for the benefit of the employees of his subcontractor may be tax-deductible providing that they are properly documented. If one of the conditions of establishing collaboration with a subcontractor is the provision of food to the subcontractor's employees at the site of contract performance throughout the contract's duration, then the fact that the trader incurs such expenses affects the amount of the remuneration due to the subcontractor for his services. Such expenses are, therefore, tied to the business operations conducted by the trader and contribute to the generation, preservation or protection of a source of income – the Director of National Tax Information explained in an interpretation issued on 10 March 2022 (number 0111-KDIB1-1.4010.561.2021.4.EJ).

➡ Transforming a sole proprietorship into a company is not a supply of goods

A change in the legal form of operations conducted by a trader, i.e. transformation of a sole proprietorship into a limited liability company, will not constitute a supply of goods for consideration as defined in Article 7 of the Act, or of a supply of services for consideration as defined in Article 8 of the Act. Thus, the transformation of a sole proprietorship into a limited liability company will not meet the disposition of Article 5 par. 1 of the Act, and as such will not be subject to taxation with value added tax – indicates individual interpretation number 0114-KDIP1-1.4012.105.2022.1.IZ of 21 March 2022.

CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for March 2022 - other premium remitters
- ✓ Payment for March 2022 of monthly PIT and CIT advances
- ✓ Payment for March 2022 of advances collected on employment income
- ✓ Payment for March 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 March 2022
- ✓ Payment of lump-sum tax if in March 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 March 2022 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for March 2022 to PFRON



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- ✓ Payment of VAT for March 2022
 - ✓ Filing of VAT-8, VAT-9M, VAT-12 for March 2022
 - ✓ Transmission of SAF_V7M for March 2022
 - ✓ Transmission of SAF_V7K for February 2022 (record section) and for January, February and March 2022 (declaration section)
 - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for March 2022
 - ✓ Filing of VAT-13 for March 2022
 - ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for March 2022
 - ✓ Reporting of sugar tax for March 2022
 - ✓ Reporting of retail sales tax PSD-1 for March 2022



CALENDAR



- ✓ Filing by natural persons of annual tax return on the amount of income earned (loss incurred) in 2021 (PI-36, PIT-36L, PIT-37, PIT-38, PIT-39) and payment of the resulting amount due
- ✓ Filing of PIT-OP on donation of 1% of tax to public benefit organizations by taxable persons who received PIT-40A annual tax calculation from ZUS for 2021.
- ✓ Filing by companies in succession of annual return on the amount of income earned (loss incurred) in 2021 (PIT-36S, PIT-36LS) and payment of the resulting amount due
- ✓ Submission to tax office by natural persons of declaration on the amount of solidarity tax (DSF-1) and payment of the resulting amount due
- ✓ Submission to PFRON by disabled persons who conduct business operations of application for a refund of pension and disability premiums paid for March 2022



- ✓ Payment of lump-sum income tax collected in April 2022 on dividend income and other income from shares in the profits of legal entities, and provision of information CIT-7 to taxable persons
- ✓ Payment by acquirer of lump-sum income tax for April 2022
- ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for April 2022
- ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for March 2022 and payment of output tax indicated in the declaration



- ✓ Filing of INTRASTAT for April 2022



- ✓ Payment of ZUS premiums for April 2022 - remitters with legal personality
- ✓ Payment to PPK



CALENDAR



MAY 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				



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- ▶ 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.

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