

BS&O ALERT



INFORMATION

Central Pension Information to be formed this year

The government has prepared a draft of the Central Pension Information Act (UD 345). This new information system (CIE) is to hold in one place the data from all of the pension security pillars (public, company, individual). It will provide illustrative information on the balance of retirement savings and the amount of future benefits.

Under the government's draft bill on Central Pension Information, as soon as this year it will be possible to receive information about the balance of pension accounts in electronic form and in one place. This would replace the

existing system where many institutions (e.g. TFI or PTE that operate PPK, PTE that operate OFE) and ZUS are required to send letters (e-mails) with information about the account balances of their clients. CIE will also make it possible to update personal data from public records, i.e. automatically, by for example, obtaining data from the PESEL register. The act itself is to state that Central Pension Information (CIE) is a set of organizational and technical solutions with two objectives. The first CIE objective is to provide access to pension information, including



about one's pension products, current and comprehensive balance of retirement funds and their estimated effect on the amount of future pension benefits. The second is to enable the stakeholders to use specified electronic services related to pension benefits.

Under the provisions of the new bill, CIE will present its users with aggregated information on their participation in the three-pillar pension system: the public pillar – made up primarily of the universal system operated by the Social Insurance Office and the Agricultural Social Insurance Fund; the private employee pillar, co-created or created by employers – consisting of Employee Capital Plan (PPK) accounts and Employee Pension Plan (PPE) accounts; and the private individual pillar – made up of Individual Pension Accounts (IKE), Individual Pension Security Accounts (IKZE)

and Open-Ended Pension Funds (OFE).

The bill provides that pension information is to be defined as the stakeholder's identification data, the data relating to the stakeholder's pension product and the data on the contributions recorded on the stakeholder's account and other amounts used to calculate the stakeholder's future pension benefits, along with information about the estimated amount of those benefits. And so under the draft bill, pension information will be the person's identification data and, above all, information about the funds and other assets that are or will be used to pay benefits after the person retires.

The new bill that is currently being consulted would go into effect after just 14 days of its publication in the Journal of Laws (some of the provisions after three or twelve months of publication).



Initial inventory no longer part of premium calculation base

Inventory differences, i.e. prior year purchases, can be considered when determining the income for the calculation of health premiums - indicate the amendments to the Code of Commercial Partnerships and Companies signed by the president, which also contain changes in health insurance regulations.

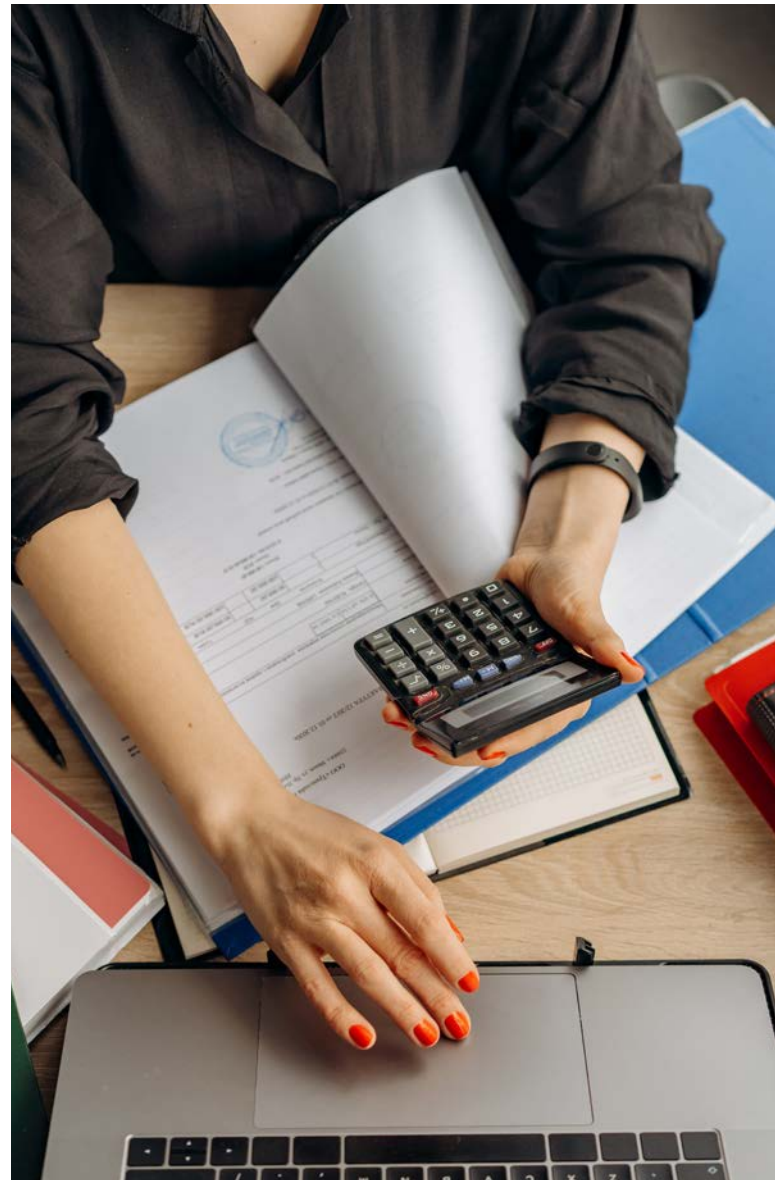
The president has signed the Act of 9 February 2022 amending the Code of Commercial Partnerships and Companies. It has been published in item 807 of the 2022 Journal of Laws and is in effect as of 13 April 2022. Among others, the amendments modify the methods used to determine the income used to calculate traders' health insurance premiums, which will be determined in consideration of inventory differences. As a result, companies that purchased goods back in 2021, but sell them in 2022 will be able to deduct those purchases when calculating their health insurance premiums.

To recap, under currently binding regulations, income is increased or decreased by the difference resulting from comparing the final and initial inventory. If the difference between the final and initial inventory is positive, income is increased by that difference, and if it is negative - income is decreased.

With the implementation of the so-called Polish Deal as of 1 January 2022 a rule was introduced whereby health insurance premium is calculated on income that did not reflect inventory differences, which meant that the premium was to be calculated on the entire inventory rather than only on the inventory difference.

The amendments also clarify two other important matters. The first being that income determined for the purposes of calculating the

health insurance premium will not reflect the majority of income (tax-free revenue). There are, however, exceptions to this rule that relate to, among others, income from new investments or income earned in a special economic zone, as well as revenue subject to expatriation relief, working senior relief and the so-called family 4+ relief. These rules will not only apply to PIT taxable persons, but also when health insurance premiums are paid by traders taxed with lump-sum tax on registered income. Secondly, the amendments introduce a rule that income from the sale of tangible assets will not be increased by depreciation charges claimed as a tax-deductible cost prior to 1 January 2022.



Employees will join supervisory boards of cross-border transformed companies

Sent for consultations at the beginning of May was the minister's of family and social policy draft bill on employee participation in a company formed as a result of a cross-border conversion, merger or division. Among others, it provides for the participation of such company employees in the work of its supervisory board or board of directors.

The objective of the act on the participation of employees in a company formed as a result of a cross border conversion, merger or division is the transposition into the Polish legal system of Directive 2019/2121 with re-

spect to employee participation in company transformation processes.

The draft adopts a model for the joint participation of employees in company supervision and control. It allows employees to realistically affect the company's development and to exercise supervision thereon. This supervision is to be possible primarily by allowing employee representatives to become part of the company's supervisory board. Those that exercise owner's supervision, i.e. shareholders and members of the governing bodies of the companies that are being converted, merged or divided, will be required by law to respect those employee rights. In particular, the act regulates the forms of employee participation in a company formed as a result of a cross-border conversion, merger or division, which include: the right to appoint or elect a specified number of supervisory board or board of directors members; the right to recommend supervisory board or board of directors members; the right to object to the appointment of some or all supervisory board or board of directors members.

And so, Chapter 2 of the draft bill contains regulations on the first of the two models for the exercise of employee rights to participate in a company formed as a result of a conversion, merger or division. In the model discussed in Chapter 2, the form of employee participation in a company formed as a result of a cross-border conversion, merger or division is decided in negotiations with a special negotiation team, prior to the formation of the company as a result of a cross-border transformation. Whereas the second model is based on the standard rules discussed in Chapter 3. In the second model, employee rights to participate in a company formed as a result of a cross-border conversion, merger or division are exercised after the company is formed as a result of the cross-border transformation, with the support of a representative team.



Under the standard employee participation rules, employees will have the right to: appoint or elect or recommend members of the supervisory board or board of directors of the company formed as a result of a cross-border conversion, merger or division, or object to the appointment of some or all supervisory board or board of directors members – at a number equal to the highest number of employee representatives on the supervisory board or board of directors of the company that is being converted, all of the merging companies or the company that is being divided, prior to the registration date of the company formed as a result of the cross-border conversion, merger or division, as specified in the chapter (Article 30 of the draft).

The lawmakers' intention is to protect employees by letting them participate in the supervisory organ and to guarantee the ability to consult and get information on planned transformations.

Chapter 4 contains provisions that apply to those who represent employees employed

in the Republic of Poland on the supervisory board or board of directors of a company formed as a result of a cross-border transformation. The lawmakers have adopted a rule under which those who represent employees on the supervisory board or board of directors of a company formed as a result of a cross-border conversion, merger or division, have the same rights and responsibilities as the other members of the supervisory board or board of directors, including voting rights equal to those of the other members of that body.

Chapter 5 of the draft bill includes regulations that prohibit the disclosure of information that constitutes a company secret, and Chapter 6 contains provisions that protect the employment relationships of those employees who are members of a special negotiation team, representative team and supervisory board.

The act is expected to go into effect as of 31 January 2023, which is the latest Directive 2019/2121 implementation date.



New employee-friendly definition of remote work

At the beginning of May the final version of the Act amending the Labor Code and certain other acts (UD 318) was sent to the Law Committee. The amendments are to enable employers - in justified cases - to perform preventive sobriety checks, as well as implement regulations on remote work as a permanent solution.

Currently binding Labor Code provisions do not contain regulations on remote work. However, based on the act of 2 March 2020 remote work was introduced in the Polish legal system for the duration of the COVID-19 epidemic and for 3 months after lifting the state of epidemic or state of epidemic threat declared due to COVID-10. It should be noted

that a draft of the minister's of health decree on lifting the state of epidemic in the territory of the Republic of Poland was added to the list of work of the Government Legislative Center on 9 May. The draft decree indicates that as of 16 May 2022 the state of epidemic in Poland is to be replaced with a state of epidemic threat. It should be stressed that the regulation on remote work was extemporary in nature, as it was enacted due to the epidemic and may only be applied for the specified period. Thus a draft bill has been prepared to add remote work to the Labor Code permanently.

According to the proposed amendments, remote work will be work performed in whole



or in part at a place indicated by the employee and agreed with the employer, including at the employee's residence address, in particular with the use of direct remote communication. This means that it will be possible to perform work remotely full time, or only part time, e.g. 3 days a week at the office and 2 days at home. The place of remote work performance will always be the place indicated by the employee and then agreed with the employer (i.e. approved by the employer). As a rule it will be the place of employee residence or another place (places) indicated by the employee and approved by the employer. This part of the definition is of key importance when differentiating remote work from work performed the traditional way. This means that an employee who performs all or part of his work duties outside his workplace will not be a remote employee if his place of work

performance has been indicated by the employer and agreed with the employee (in the employment contract), or has been indicated extemporarily by order of the employer (e.g. employee ordered to take a business trip). The scope of remote work will be wider than that of telework, due primarily to the absence of a requirement to provide work regularly or to report work results, in particular through means of electronic communication. This is because remote work may be performed using means of direct remote communication, which means not only electronic communication, but also for example telephone, fax, online messengers, and even without the use of such means (e.g. document analysis).

It should be noted that the place of remote work performance, irrespective of whether it is the employee's home address or another place chosen by the employee and approved by the employer, will also be the subject of agreement between the parties to the work relationship. This means that neither the employer nor the employee will be able to impose on the other the place of remote work performance. This does not preclude a situation where the parties agree that remote work will be performed at various places, of which the employee will each time inform the employer. Whereas the provision does not give total freedom of choice of the place of remote work performance (i.e. without agreement with the employer).

At the same time, the authors of the proposed amendments have also decided to regulate occasional remote work directly in the Labor Code. The purpose of this regulation is to enable the continued functioning of the so-called home office, which however, once the amendments go into effect, will have to meet the Labor Code's criteria for occasional remote work.

The draft provides that the new regulations on remote work will go into effect 3 months after the state of epidemic is lifted in the entire territory of the Republic of Poland (i.e. most likely as of 16 August).



In short:

↓ Government to create an IT system to facilitate the hiring of Ukrainians

On 10 May 2022 the Council of Ministers adopted a draft bill to amend the Act on assistance to the citizens of Ukraine in connection with the military conflict in the territory of that state, as well as the Act on computerization of the activities of entities that perform public tasks, submitted by Janusz Cieszyński, secretary of state at the Chancellery of the Prime Minister. Under the bill, the government will create an IT system to make it easier to establish contact between employers and the Ukrainian citizens who are seeking employment. The solution will allow those searching for work to map their skills and needs and get a response with job offers and contacts to potential employers.

↓ New consolidated texts of the VAT Act and the Company Social Benefits Fund Act

The new consolidated text of the Value Added Tax Act has been published in item 931 of the 2022 Journal of Laws. A relevant announcement has been in effect since 29 April

and covers certain transitional regulations from the most recent amendments to the VAT Act that were not included in the consolidated text. The consolidated text itself reflects the changes made to the VAT Act by as many as 10 amending acts passed in 2021. Whereas the new consolidated text of the Company Social Benefits Fund Act has been published in item 923. A relevant announcement has been in effect since 28 April 2022.

↓ Supervisory boards running out of time to file remuneration reports

Supervisory boards of public companies listed on a regulated market are required to prepare reports on the remuneration of their management and supervisory boards for the past financial year prior to convening a general shareholders meeting. Such reports are subject to being verified by a certified auditor. This verification is not, however, an audit, but rather an assurance service separate from audit of financial statements. It may, however, be performed by the same entity that audits the company's financial statements. Companies must publish the reports on their websites for at least 10 years of the end of the general shareholders meeting at which the report was consulted or discussed. More on this in our alert.

↓ Information CIT-15J is not a tax declaration

In response to a parliamentary inquiry (31371), the Ministry of Finance has clarified several issues relating to the filing of CIT-15J. According to the Ministry, information CIT-15J is not a tax declaration as defined in the Tax Ordinance and may only be filed by an agent appointed on the basis of a general power of attorney (PPO1) or special power of attorney (PPS-1). At the same time, it is not possible to submit a PPS-1 power of attorney via the e-Deklaracje system. More on this in our tax alert.

↓ Favorable changes to PPE, IKE and IKZE as of 1 July 2022

The Act of 7 April 2022 amending the Act on employee pension plans and the Act on individual pension accounts and individual pension security accounts has been published in the 2022 Journal of Laws (item 904). The amendments make it easier for employers to operate Employee Pension Plans. For example, 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. Changes have

also been made to the regulations on IKE and IKZE. The changes were discussed in detail in the previous edition of our alert. Most of the new regulations will go into effect as of 1 July 2022.

↓ **ZUS plans to make it possible to pay premiums via e-payments**

The Management Board of the Social Insurance Office has adopted its “IT development strategy” until the end of 2025. It intends to make all of its services available online. The plans call for

a mobile app for premium remitters and doctors, i.e. those groups of clients who communicate with ZUS the most. It also plans to make it possible to pay premiums via e-payments, as well as to create a mobile app for those who collect benefits for children, such as 500+ or Family Care Capital.

↓ **Government to create e-Tax Office to replace the current tax portal**

The Sejm has already passed a draft bill amending certain acts in order to automate the

handling of certain matters by the National Tax Administration. It provides for the formation of an IT system called e-Tax Office (e-Urząd Skarbowy) to replace the existing tax portal. All of the matters that are now handled through the tax portal will be taken care of via an e-Tax Office account. Communications conducted via e-Tax Office accounts (through its portal or mobile app) will be as legally valid as those performed the traditional way. More on this in our tax alert.



Important rulings and interpretations:

Drivers will not pay premiums on allowances paid out during foreign trips

➡ The income that constitutes the basis for the calculation of retirement and disability premiums of a driver who performs his work duties as part of international road transport and whose income is higher than the average monthly salary, is not increased by the equivalent of the per diem allowance due to the driver in connection with business travel for each day of travel determined in accordance with the applicable regulations on foreign travel. The resulting monthly income constituting the basis for the calculation of premiums cannot be lower than the amount corresponding to the average monthly salary – indicates an interpretation issued by ZUS on 8 April 2022 (WPI/200000/301/2022).

Separate health insurance premium on income taxed in different forms

➡ Where a trader simultaneously earns income as a sole trader taxed on a lump-sum basis and from shares in a limited partnership, he pays health insurance premiums in such a way that he pays one premium on the income earned as a sole trader, and another on being a limited partner of limited partnerships (irrespective of the number of such partnerships) – indicates an interpretation issued by ZUS on 5 April 2022 (DI/100000/43/348/2022). The interpretation emphasizes that the phrase "separate income" used in health insurance regulations refers to income separately taxed under each form of taxation.

Premium cap possible when disability decision issued

➡ A person who performs non-agricultural business activities and has been issued a decision of a moderate or significant degree of disability, for whom such activities are the only source of income, may pay health insurance premiums at an amount that does not exceed his personal income tax advance – indicates an interpretation issued by ZUS on 29 April 2022 (DI/100000/43/425/2022). This rule does not apply to traders taxed with a lump-sum on taxable income or tax card, or those who pay quarterly advances, as in this case the advance is attributed to a different period than the health insurance premium.

Interest on loans for the acquisition of shares deductible

➡ If the expenses associated with the acquisition of shares were incurred in order to increase revenue from operating activities and an assessment of the impact of incurring those costs on the generation of that revenue is realistic, then there is a connection between those costs and the source of that revenue other than capital gains – indicates a ruling issued by the Supreme Administrative Court on 24 March 2022 (case file II FSK 1695). A purchase of shares made in order to generate revenue from sources other than capital gains or to preserve or secure other source of revenue in accordance with Article 15 par. 1 of the CIT Act entitles the taxable person to include the interest on a loan taken out for the purchase of shares in tax-deductible costs.

CALENDAR (most important deadlines)

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



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



CALENDAR



- ✓ Submission to ZUS of information on the amount of income from gainful employment for the period from 1 March 2021 to 28 February 2022 by those who receive pre-retirement benefits
- ✓ Submission to PFRON by disabled persons who conduct business operations of application for a refund of pension and disability premiums paid for April 2022
- ✓ Last day for employers who form mandatory company social benefits funds to deposit at least 75% of the basic contribution equivalent in a separate ZFŚS bank account



- ✓ 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 May 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 May 2022 and payment of output tax indicated in the declaration



- ✓ Filing of INTRASTAT for May 2022



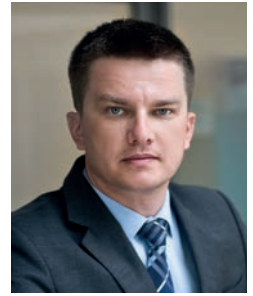
- ✓ Payment of ZUS premiums for May 2022 - remitters with legal personality
- ✓ Payment to PPK



CALENDAR



JUNE 2022						
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15	16	17	18	19	20	21
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29	30					



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Apart from HR and payroll services, we also support companies in other challenging areas, as e.g.

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- ▶ 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.