

# BS&O ALERT



## Information

### Additional on-demand leave in family matters with half the remuneration


**T**he Labor Code will include regulations enabling employees to take additional time off due to a force majeure relating to urgent family matters caused by illness or accident, if the employee's immediate presence is necessary. Only half the remuneration will be paid for such leave.

Amendments to the Labor Code (draft UC118) incorporating into the Labor Code the provisions of the EU Work-Life Balance Directive (Directive 2019/1158) and Directive 2019/1152 on trans-

parent and predictable working conditions in the European Union were scheduled to go into effect this year – as of 1 August. All indications are, however, that this plan will fail and that they will go into effect later.

One of the solutions proposed under the amendments is time off due to a force majeure. To this end, Article 1481 is to be added to the Labor Code, under which an employee will be eligible for 2 days or 16 hours off per calendar year due to a force majeure, in urgent family



The background of the page is a photograph of a dental clinic. It shows a close-up of a dental chair's control panel with several white plastic buttons and a blue dental handpiece. The background is softly blurred, showing a white bowl and other dental equipment. A red vertical bar is located at the bottom left of the page.

matters caused by illness or accident, if the employee's immediate presence is necessary, at half the remuneration. The employer will be required to grant such leave on demand and on the day indicated by the employee, who must make the request no later than on the day of the intended leave.

The amount of leave granted on an hourly basis to a part-time employee will be determined in proportion to the number of hours worked by that employee; partial hours of leave will be rounded up to full hour.

Hourly based leave will also be available to those employees whose daily norm arising out of separate regulations is lower than 8 hours, e.g. employees with a moderate degree of disability or health-care employees.

Employees using leave due to a force majeure will be subject to the provisions of Article 1832 of the Labor Code relating to the obligation to admit employees to work after leave related to the birth of a child. Employees will be entitled to 50% of remuneration for the time of such leave, to be calculated in the same manner as remuneration for annual leave.

Employees on force majeure related leave will remain in an employment relationship and retain their employee rights.

## Domestic e-Invoice System not mandatory until 2024

The Domestic e-Invoice System (KSeF) will become mandatory in Poland as of 1 January 2024, instead of January 2023 as originally planned by the Ministry of Finance. That's what the Council of the European Union agreed to in respect of this solution. The consent was necessary as the KSeF is a departure from the rules adopted in EU VAT regulations. The Domestic e-Invoice System (KSeF) makes it possible to issue and share structured invoices. It has been in operation in Poland since January 2022, but on a voluntary basis. This in turn means that structured invoices are only one of the allowed forms of documenting transactions, in addition to paper and electronic invoices. The goal is to make the system mandatory. In order, however, to make it mandatory, it was necessary to get the EU's consent. That consent was obtained in June, but with the stipulation that the consent (granted by the Council of the European Union following the European Commission's opinion) is in effect from 1 January 2024 to 31 December 2026. Poland will be able to apply to extend that period. Previously the government planned to make KSeF a mandatory solution as

of January 2023. The EU has moved that date by a year.

To recap, taxable persons who already use structured e-invoices get their VAT refunds by 1/3 faster, i.e. within 40 instead of 60 days. They also do not have to store the invoices issued in KSeF, as they are stored by the tax administration for 10 years, i.e. until the statute of limitations runs out on most tax liabilities. What's more, those who issue invoices via KSeF do not have to submit upon the tax authorities' request the structure of the Standard Audit File for Invoices (JPK\_FA), as such data are available for the tax authorities in KSeF, so sending them would not make sense.

The regulations that introduced structured invoices have also brought with them other invoice related facilitations, including eliminating the need to label an invoice as a "Duplicate" when the original is damaged or lost, or to label corrective invoices with the words "Corrective invoice" or "Correction" and to indicate the reasons for the correction.

Aggregate corrections may be made to each invoice item. It is also possible to use a corrective invoice to correct invoices for individual supplies of goods or services, or for all supplies of goods or services made in a given period to a single customer. In addition, invoices may be issued early. Taxable persons can issue invoices no sooner than on the 60th day (instead of the current 30 days) before a supply of goods or services is made, as well as on the 60th day before receipt, before a supply of goods or services is made, in whole or in part.

The Central Invoice Register keeps all of the invoices issued by those traders who use the system. They are forwarded using an account – via the ministry's platform. Each taxable person can have a personal account for tax purposes. It may be accessed from a computer and any mobile device. Access to the account makes it possible to view the e-invoices issued by the taxable person, as well as those received from suppliers who have forwarded them via the platform.



## Some taxable persons can change their form of taxation retroactively

According to ZUS, traders who have changed their form of taxation after the end of the year must also use the new rules to calculate their health insurance premiums. This means that in their annual return they must calculate them in accordance with the rules applicable to traders taxed on the tax scale and compare with what they paid throughout the year when on lump-sum or flat-rate taxation. The amendments to the Polish Deal in effect as of 1 July 2022 (so-called Polish Deal 2.0) make it possible for lump-sum and flat-rate PIT taxable persons to change the form of taxation applied in 2022. However, the change is only possible in such a way that those groups of taxable persons, instead of using the originally selected form, will be able to account for their taxes as if taxed on the tax scale.

Those who pay flat-rate PIT will only be able to make this choice in their annual tax return. And so they will have to continue to pay flat-rate PIT advances until the end of the year. Later, in their annual tax return, instead of flat-rate PIT they will be able to use the tax scale to account for the entire 2022. Such taxable persons have plenty of time to make a decision, as annual PIT returns for 2022 are not due until the end of April 2023.

Things look a little different for lump-sum taxable persons. They have two choices – change the form of taxation as soon as of 1 July 2022 (in the middle of the year), by filing an appropriate declaration by 22 August, or make the change in their annual return.

In considering whether to change the form of taxation one should look at the consequences relating to health insurance premium. According to ZUS, traders who change their form of taxation after the end of the year will also have to use the new rules to calculate their health insurance premium. This means that in their annual return they will have to calculate it on

the scale and compare with what they paid throughout the year while taxed on a lump-sum or flat rate basis. It is important to remember that on the scale the health insurance premium amounts to 9% of income, whilst for flat-rate PIT it is 4,9%, whereas in the case of lump-sum payers the rates are fixed and paid at a set amount depending on which of the three brackets the taxable person's income falls in. So the effect of a change in the form of taxation may be such that whatever the taxable person gains by changing over to the tax scale with the reduced 12% rate in the first bracket, he will lose on having to pay more in health insurance premium. It is also important to remember that 2023 will be the first time that taxable persons will have to prepare a health insurance premium return (for the period from February 2022 to January 2023) in addition to the annual PIT return.

It should also be remembered that as of 1 July flat-rate PIT and lump-sum taxable persons will be eligible to deduct a portion of their health insurance premium from their income (flat-rate) or revenue (lump-sum). They will lose this eligibility after changing the form of taxation, as those on the tax scale are not eligible for this deduction. This means that any deducted amounts will have to be re-added to tax scale taxable income.



## Regulations introducing e-Tax Office in effect as of 7 July

**E**-Tax Office is a computer system that will soon become the main tool for contacting the tax authorities. It will also be a transaction system used to fulfill tax obligations. The system will be used by: taxable persons, tax remitters, tax representatives, court enforcement officers and notaries.

E-Tax Office is an IT system used by the National Tax Administration (KAS) authorities to perform their duties. While CRDP (Central Tax Data Register) is used primarily to collect data held by KAS, e-Tax Office will use those data to handle matters that fall within the jurisdiction of KAS and to communicate with taxable persons. E-Tax Office will be used to take care of all sorts of matters that are within the jurisdiction of KAS, with the exception of those that based on separate regulations are to be

handled using other KAS IT systems, i.e. PU-ESC, KSeF or e-TOLL).

E-Tax Office is designated for use by five groups of stakeholders: taxable persons, tax remitters, tax representatives, court enforcement officers and notaries. It is to provide access to tax information, as well as guarantee full transactionality, as the available tools and services will make it possible to take care of complex matters online, including the fulfillment of tax obligations. E-Tax Office will allow for the comprehensive handling of various matters, mainly those related to VAT, PIT and CIT. Those with e-Tax Office credentials will get access to their tax information. In addition, they will be able to handle official matters relating to available tax information, as well as other matters.



The new regulations contain a rule whereby overpayment refunds for taxable persons without a residence address in the territory of Poland will only be made to the bank account indicated by the taxable person in accordance with the regulations on the submission of bank accounts for refunds of overpayments (in annual returns or in update filings of natural persons who are taxable persons/ZAP-3/). This change only applies to taxable persons without residence in the territory of Poland. The amendments have limited the extent of information confirmed by way of a certificate. ZAS-W certificates will not include information on ongoing tax crime or tax offence proceedings, whilst ZAS-DF and ZAS-DP – turnover information. In addition, the section relating to VAT and excise tax has been removed from the ZAS-DF and ZAS-DP templates. Certificates are to be issued automatically via

e-Tax Office. The new regulations also make it possible to use e-Tax Office to submit notices of so-called active repentance. It will still be possible to submit active repentance in the current form.

Under the new regulations, the Head of National Tax Administration and heads of tax offices will be able to update the entity (company) name, place of establishment, address of permanent place of business operations and addresses of additional permanent places of business operations in CRP KEP (National Taxable Person Register) based on data contained in or obtained from the IT systems of the National Court Register or the Central Register and Information on Economic Activity (CEIDG). At the same time, automatic access to the data held in CRP KEP has been given to the Chair of the Financial Supervision Authority and to court enforcement officers.



## In short:

### Numerous important changes to PIT Act as of July

↓ The provisions of the so-called Polish Deal 2.0 went into effect on 1 July. Aside from the widely discussed changes such as a reduction in the first tax rate from 17 to 12%, elimination of middle-class relief, changes in joint taxation of single parents or eligibility of selected groups of traders to partially deduct health insurance premiums, the amendments have also resulted in some less obvious changes, such as clarification of IPO relief, new regulations on merging unincorporated companies, higher trade union contribution limits, deduction of health insurance premiums from solidarity tax or taxation of so-called small contracts for services. The said changes are discussed in detail in one of our tax alerts.

### Need for double advance calculations not completely eliminated by Polish Deal 2.0

↓ As of 1 July 2022 there is, theoretically, no requirement to perform double advance calculations. The requirement to calculate PIT advances in accordance with

the rules in effect in 2021, and then again in accordance with the rules in effect as of 1 January 2022 has thus been lifted. At the same time, the provisions on health insurance premiums still contain a rule whereby if the amount of the health insurance premium exceeds the amount of the PIT advance calculated in accordance with the regulations in effect on 31 December 2021, the remitter should reduce that premium accordingly. This in turn means that it will still be necessary – this time only for the purposes of the health insurance premium – to perform double calculations. More information on important changes in effect as of 1 July may be found in our tax alerts and in the news available on our website.

### New tax scale and standard deduction already in effect

↓ As of 1 July, under Polish Deal 2.0 changes have been made in the taxation of wages. Most importantly, a new tax scale will be applied as of July, where the first rate has been reduced from 17 to 12%. The second rate has remained unchanged and continues to amount to 32%, which is collected on excess over PLN 120 thousand per year. The most important point of the changes is the reduction of the PIT rate in the first tax bracket from the

current 17 to 12 percent. The reduction of the first tax rate has resulted in a change in the standard tax deduction in the first tax bracket, so that the tax on income under PLN 30 thousand continues to amount to 0. The standard tax deduction now amounts to PLN 3600 instead of the previous PLN 5000. This means that when calculating monthly tax advances a monthly deduction of PLN 300 will be used, rather than PLN 425 as has been the case since January. More on this may be found in our tax alerts and in the news available on our website.

### As of 7 July new provisions on access to e-Tax Office

↓ The minister of finance has prepared a draft decree on the use of e-Tax Office. It follows the passing of the Act of 8 June 2022 amending certain acts in order to automate the handling of certain matters before National Tax Administration (2022 Journal of Laws, item 1301). The draft relates to the ministry's new IT solution – e-Tax Office, which is to replace the tax portal. Among others, the decree regulates data to be provided when applying for access to an e-Tax Office account; the method and procedure of applying for access to an e-Tax Office account and the authority that will review such applica-



tions, the terms of use of e-Tax Office, including how user accounts will be authenticated. The decree went into effect together with the amendments to the National Tax Administration Act, i.e. as of 7 July 2022.

#### Two minimum wage increases approved by government

↓ There will be two minimum monthly wage increases next year. The government intends to introduce the first – up to the gross amount of

PLN 3383 – as of 1 January, and the second – up to PLN 3450 as of 1 July. This is the minimum wage increase plan proposed by the Council of Ministers on 6 June after reviewing the proposal presented by the minister of family and social policy. The plan also calls for raising the minimum hourly wage. Also in this case two increases are planned, similarly to the minimum monthly wage – to PLN 22,10 and PLN 22,50. Before 15 June the government's proposals were sent to the Social Dialog Council for negotiations between employers and trade unions. The trade unions were asking for increases to PLN 3500 and PLN 3750.

#### 100 million electronic sick leave notes have been issued

↓ According to ZUS, in June a doctor at the Central Clinical Hospital on Banacha Street in Warsaw issued the 100 millionth electronic sick leave note (e-ZLA). When a doctor issues an e-ZLA, he sends it (after signing it with a ZUS certificate, qualified signature or trusted profile PZ ePUAP) electronically to ZUS. ZUS shares the e-ZLA with the premium remitter (e.g. employer) on his PUE ZUS profile no later than the following day (without listing the statistical code of the illness). This information is also sent to the insured



(employee) who has a PUE ZUS profile.

### ZUS has revalued pension accounts

↓ The total balance of insureds' accounts and sub-accounts has gone up by PLN 281 billion as a result of the June revaluation of contributions. According to ZUS, the balance of accounts increased by 9,33%, and of the sub-accounts by 7,07%. The account and sub-account revaluation indicators translate into the amount of future pensions. For example, an insured who had an account balance of PLN 450 thousand got nearly PLN 42 thousand added by ZUS. An insured who has PLN 850 thousand will gain more than PLN 70 thousand. The contribution revaluation indicators were very high in recent years, making it possible to multiply the retirement funds held at ZUS at a rate not seen on any bank deposit (9,20% in 2019 and 8,94% in 2020). In 2021, accounts went up by 5,41%, and sub-accounts by 5,23%.

### Withholding tax regulations to change in the fall

↓ The government has prepared a draft of amendments to the CIT Act (UD404) with, among others, changes in

withholding tax (WHT) regulations. As part of the planned amendments, the government plans on loosening the mechanism applied to collect the tax since 1 January 2019. It is to consist of eliminating some of the obligations of the broadly defined tax remitters (i.e. both issuers and sensu stricto remitters, as well as the entities who are so-called technical remitters) with respect to the taxation of interest and discount on treasury securities (i.e. treasury bills and bonds). To this end, the government proposes widening the scope of the income tax exemption of non-resident remitters under Article 17 par. 1 point 50 of the CIT Act and Article 21 par. 1 point 130 of the PIT Act to also include treasury bonds and bills offered on the domestic market, as well as a corresponding change in the exemption from the obligation to withhold the tax under Article 26 par. 1aa of the CIT Act and Article 41 par. 24 of the PIT Act.

### Changes in regulations on minimum tax

↓ The government is working on more significant amendments to the CIT Act (UD404). According to the information disclosed in the government's legislative plans, the changes are to consist of modifying and deferring the effective date of the regulations on minimum income tax. The suspension is

to last from 1 January 2022 to 31 December 2022. The amendments also provide for changes in the structure of the tax itself. They are to consist primarily of raising the profitability ratio to 2% whilst at the same time changing its calculation method (exclusion from tax-deductible costs of fixed asset leasing fees, exclusion from revenues of trade receivables sold to factoring entities, exclusion of excise tax). In addition, the amendments are to introduce an alternative method for determining the tax base. More on this may be found in our tax alerts and in the news available on our website.

### More effective protection for off-premises contracts

↓ The Council of Ministers has adopted a draft bill amending the Consumer Rights Act and other acts, submitted by the president of the Office of Competition and Consumer Protection (UOKiK). It extends to 30 days the deadline for opting out of a contract concluded during a trader's unscheduled visit at a consumer's home or an excursion organized by the trader. It will forbid the conclusion of contracts for financial services during a demonstration or excursion, i.e. a meeting organized for consumers in order to promote, offer the sale of or sell goods or services. Contracts concluded in such circumstances will be invalid and will have no legal effects for the consumer.

## Important interpretations and rulings:

Debt does not have to be repaid, but there is tax on the cancellation

➔ Where a liability is cancelled as a result of a debt relief agreement, the recipient obtains a benefit resulting in taxable income. This is because he receives a material, measurable gain, as the liability he would have had to pay if not for the cancellation is decreased – says an individual interpretation issued on 20 June 2022 (number 0114-KDIP3-2.4011.378.2022.3.MN). At the same time, according to a KAS director, in order for the recipient to generate income it is of no significance whether the creditor and debtor conclude a debt relief agreement, or whether the debt is cancelled by way of the creditor's unilateral declaration of intent.

Payment of internship stipend or compensation without costs

➔ As explained by a director of KAS in an individual interpretation of 27 June 2022 (0114-KDIP2-2.4011.272.2022.2.IN), binding regulations do not provide for the presence of tax-deductible costs for those who receive

stipends in connection with apprenticeships and internships. In view of this, when calculating income tax on an apprenticeship or internship stipend paid to the participants of a project co-funded from the Social Fund and the entity's own funds, there are no bases for the application of tax-deductible costs. In addition it was clarified that stipends paid as part of a program financed with EU funds will be exempt from taxation (Article 21 par. 1 point 137 of the PIT Act), which means that the tax remitter has no obligation to collect and pay personal income tax advances, or to prepare PIT-11 in respect of apprenticeship and internship stipends.

Advances not collected on all remuneration paid to shareholder

➔ The payment to a shareholder of remuneration for recurring in-kind services provided to the company in the area of graphic design and valuations, which are classified as income from self-employment, means that as a tax remitter the company is required to calculate, collect and pay tax advances and to submit PIT-11





– says an individual interpretation issued by KAS on 22 June 2022 (0115-KDIT1.4011.160.2022.2.MN). On the other hand, when it comes to services associated with the management of billing and issuing of invoices to the company's clients, which are classified as income from other sources, the company is not required to collect income tax advances, but is required to issue to the shareholder a PIT-11 for the year in which it actually pays such remuneration.

#### **Tax on advance paid to general partner without deductions**

➔ As a tax remitter, the company is required to collect lump-sum income tax on amounts paid to its general partner for his share of the company's profits in the form of advanced distributions of profit – states an individual interpretation issued by a director of KAS on 14 June 2022 (0114-KDIP3-1.4011.542.2022.1.BS). Thus the payment of an advance towards a share of the company's profits results in income. At the same time, there will be no bases for reducing the value of the lump-sum tax collected by the company by the deduction referred to in Article 30a par. 6a-tc of the act. This is because the amount of tax due on income generated by the limited partnership for the tax year in which the income from the share of profits (advanced distribution of profit) was generated will not yet be known. The company – as a tax remitter – should therefore collect the tax at the rate of 19% without deductions.

#### **No ZUS on parking space paid for by employer**

➔ The value of employee parking spaces paid for by the employer is not included in those employees' social insurance premium calculation base. This also applies to health insurance premiums – states an interpretation issued by ZUS on 21 April 2022 (DI/100000/43/495/2022). This applies to benefits in-kind that arise out of remuneration regulations, and the individual parking spaces are only made available to specific employees rather than a group of employees who decide to purchase parking benefits.

## CALENDAR (most important deadlines)

- ✓ Payment of ZUS premiums for June 2022 - other premium remitters
- ✓ Payment for June 2022 of monthly PIT and CIT advances
- ✓ Payment for June 2022 of advances collected on employment income
- ✓ Payment for June 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 June 2022
- ✓ Payment of lump-sum tax if in June 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 June 2022 by real estate company (PIT-ISN and CIT-ISN)
- ✓ Payment for June 2022 of income tax on income from a fixed asset that is a building
- ✓ Payment for June 2022 to PFRON



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- ✓ Payment of VAT for June 2022 and the 2nd quarter of 2022
  - ✓ Filing of VAT-8, VAT-9M, VAT-12 for June 2022
  - ✓ Transmission of SAF\_V7M for June 2022
  - ✓ Transmission of SAF\_V7K for June 2022 (record section) and for April, May and June (declaration section)
  - ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for June 2022
  - ✓ Filing of VAT-13 for June 2022
  - ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for June 2022
  - ✓ Reporting of sugar tax for June 2022
  - ✓ Reporting of retail sales tax PSD-1 for June 2022



### CALENDAR



- ✓ Submission to PFRON by disabled persons who conduct business operations of application for a refund of pension and disability premiums paid for June 2022



- ✓ Payment of lump-sum income tax collected in June 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 July 2022
- ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for July 2022
- ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for July 2022 and payment of output tax indicated in the declaration



- ✓ Filing of INTRASTAT for July 2022



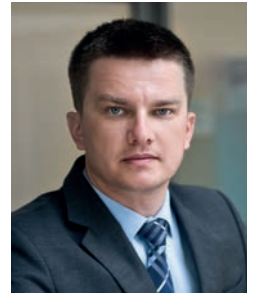
- ✓ Payment of ZUS premiums for July 2022 - remitters with legal personality
- ✓ Payment to PPK



## CALENDAR



AUGUST 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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