

BS&O ALERT



Information

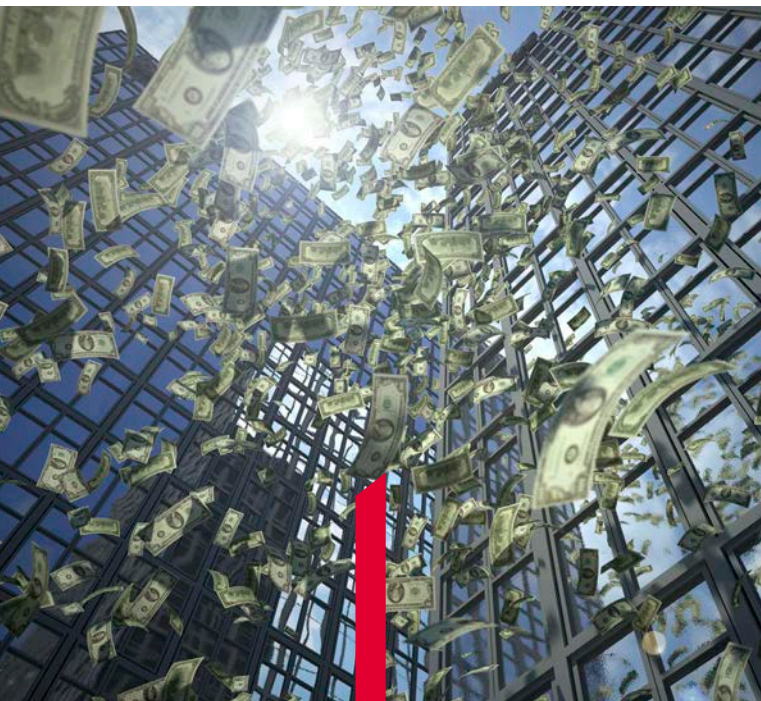
As many as two significant increases in the minimum wage in 2023

As of July 2023, the minimum wage will rise to PLN 3,600, which means an increase in employers' labor costs from PLN 3,626.46 to PLN 4,337.28. Between January and July 2023, the minimum wage will be PLN 3,490. At its meeting on 13 September, the government decided to raise the minimum wage twice in 2023. The first increase will take place on 1 January 2023, and the minimum wage will rise from the current PLN 3,010 gross to PLN 3,490 gross (an increase of PLN 480). The hourly rate will grow from PLN 19.70 to PLN 22.80. The second increase will occur on 1 July 2023, when the minimum wage will rise to PLN 3,600 (that is, by another PLN 110). The hourly rate will be PLN 23.50 from July on. The total increase in the minimum wage is PLN 590, counting against 2022.

Currently, the minimum wage is PLN 2,363 net. After the first increase, it will be about 2,700 PLN net, and after the second one – about 2,780 PLN net.

The increase in the minimum wage also means a significant increase in labor costs. Currently, the employer's cost of the employee's salary of PLN 3,010 is PLN 3,626.46. With a salary of PLN 3,490, the cost rises to PLN 4,204.75, and with a salary of PLN 3,600 gross - to PLN 4,337.28. According to the current minimum wage regulations, if the price index projected for the following year is at least 105 percent (i.e. if inflation is higher than 5 percent), two deadlines are set for changing the minimum wage and the minimum hourly rate. This is the situation we are facing now. Hence as many as two, instead of the usual one increase in the minimum wage. It is worth remembering that many of the benefits received by employees are calculated on the basis of the minimum wage rate in a given year. Based on the current provisions of the Labor Code, the increase in the minimum wage in 2023 will affect such benefits as: downtime pay; allowance for night work; the amount of severance pay due to the employee; compensation for violation of the principle of equal treatment; remuneration due to the employee for the time of non-performance of work, if the employee was ready to perform it but was hindered by reasons attributable to the employer; compensation for termination of the employment contract by the employee as a result of mobbing; the amount of benefits.

The minimum wage also affects the amount of penalties imposed under the Fiscal Penal Code.



From September, new limits for working recipients of disability and old age pensions

On 1 September, the earnings limits for pensioners who have not reached the general retirement age were changed. Suspension of benefits occurs when monthly income exceeds PLN 8,003.20. Pensioners who have not reached the general retirement age may work, but the amount of their earnings affects benefit payments. Income limits are set for such benefit recipients every three months. Their amount depends directly on the national average salary in the country in the previous quarter. Wages dropped in the second quarter, and thus starting 1 September, the limits for working pensioners are also somewhat lower - by several dozen PLN. Persons whose monthly earnings were very close to the previous limit should be especially careful. The first income threshold is 70 percent of the average salary. Starting September, this will amount to PLN 4,309.40 gross. Monthly earnings up to this amount leave the benefit unchanged. If a pensioner's income is higher, the benefit payment is reduced accordingly for the month in which the excess occurred.

The second threshold is 130 percent of the average salary, that is PLN 8,003.20 as of September. If a working pensioner exceeds this amount, Social Insurance will suspend benefit payment for the month.

The new limits are effective in September, October and November. They will change again starting December.

Pensioners who have reached the general retirement age (60 for women, 65 for men) do not have to worry about the amount of income. They may collect the benefit and earn without restrictions.

It is also worth recalling that the so-called Polish Deal introduced a special PIT exemption for pensioners. Persons who choose to remain professionally active instead of collecting the pension benefit are entitled to tax exemption on the income they earn. They will only be required to pay social and health insurance contributions. The exemption applies only to pensioners who do not collect Social Insurance benefits to which they have already become entitled. If they collect such benefits, they are taxed on the same basis as other taxpayers.



We are facing a significant increase in contributions for entrepreneurs in 2023

In the draft budget, the government has assumed an increase in the average salary next year to PLN 6,935. This means that entrepreneurs will hand over almost PLN 2,500 more to Social Insurance next year than today. The health insurance contribution for flat-rate taxpayers will also increase.

The projected average gross monthly salary in the national economy, on which the amount of Social Insurance contributions paid by entrepreneurs depends, will be PLN 6,935 next year. This follows from the draft state budget for 2023, which has already been approved by the government.

The amount of Social Insurance contributions still depends on the average monthly salary in the fourth quarter of the previous year in the national economy. As a rule, that amount is stated in the GUS announcement at the end of January or the beginning of February each year. This index is also adopted each time in the assumptions for the state budget. The basis for calculating contributions is 60 percent of this amount. The basis for calculating Social Insurance contributions in 2023 would therefore be the amount of PLN 4,161.

The interest rate for individual (full) contributions is as follows for entrepreneurs: pension contribution 19.52% of the base; disability contribution 8% of the base; sickness contribution (voluntary) 2.45% of the base; accident contribution 1.67% of the base; Labor Fund contribution 2.45% of the base.

Therefore, with the contribution calculation basis of PLN 4,161, the Social Insurance contributions will be as follows: pension contribution (19.52% of the base) – PLN 812.23; disability contribution (8% of the base) – PLN 332.88; sickness contribution (voluntary; 2.45% of the base) – PLN 101.94; accident contribution (1.67% of the base) – PLN 69.49;

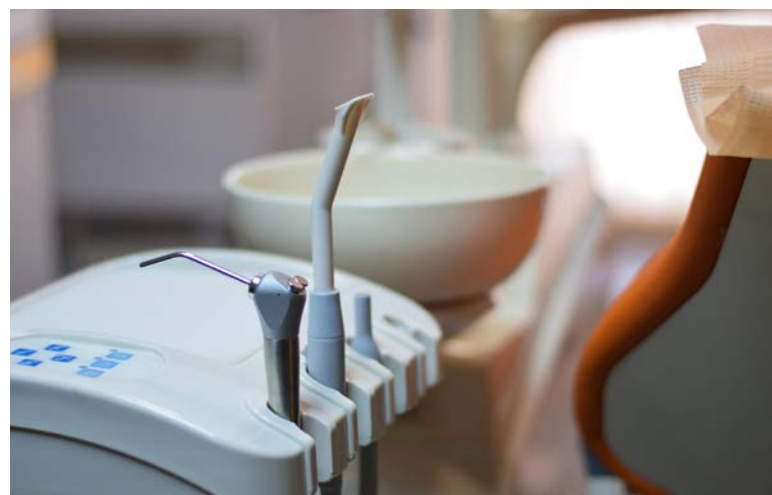
Labor Fund contribution (2.45% of the base) – PLN 101.94.

This means that the total amount of contributions to be paid to Social Insurance next year will be PLN 1,418.48, and will exceed this year's amount by PLN 207.20 per month. This way, the additional cost of Social Insurance contributions resulting from the increase will be almost PLN 2,500 next year, and more than PLN 17,000 in social contributions will need to be paid to Social Insurance account during the year.

Besides, entrepreneurs will also pay health insurance contributions in varying amounts depending on the form of taxation. In the case of scale-based taxation, the health contribution is 9 percent of income, and in the case of flat tax, it is 4.9 percent of income.

For flat-rate taxpayers, the change in average wages will mean an increase in health insurance contributions.

Thus for companies with annual revenues of up to PLN 60,000, the monthly basis of the health contribution is 60 percent of the average salary, that is PLN 4,161; for revenue levels from PLN 60 to 300 thousand, it is 100 percent of the average salary, i.e. PLN 6,935; and for revenue levels higher than PLN 300,000, it is 180 percent of the average salary, i.e. PLN 12,483. As a result, health insurance contributions starting February 2023 will be as follows for each of the above income brackets: PLN 374.49 per month (today: PLN 335.94); PLN 624.15 per month (today: PLN 559.89); and PLN 1,123.47 per month (today: PLN 1007.81).



The first CIT-8E return must be filed by the end of September

30 September marks the extended deadline for filing the annual CIT-8E tax return intended for payers of flat-rate corporate income tax, that is the so-called Estonian CIT.

This year, the CIT-8E return (stating the amount of income earned and the flat-rate tax due on the income of capital companies) is filed for the first time.

In accordance with the general rules under the CIT Act, a taxpayer taxed with the so-called Estonian CIT (i.e. flat-rate tax on corporate earnings) is required to file a return based on a prescribed template, stating the amount of income earned for the previous tax year. This should be done by the end of the third month of the tax year. This year, the CIT-8E return is filed for the first time. This year, however, the deadline has been extended twice, and for taxpayers whose tax year ended between 1 December 2021 and 31 May 2022, the deadline is ultimately 30 September.

CIT-8E is a form provided for companies that are taxed with a flat tax on corporate inco-

me (the so-called Estonian CIT). Eligible to use this form of taxation in 2021 were taxpayers operating as either a limited liability company or a joint stock company (today, it is available to all capital companies, and the tax itself, previously called "flat-rate tax on income of limited liability companies" has been renamed flat-rate tax on corporate income).

The return should be submitted electronically as required by the Tax Ordinance Act. The current CIT-8E form (version 1) is applicable starting from the tax year that begins after 31 December 2020.

Attached to CIT-8E is the CIT/EZ form, that is information on data entitling to flat-rate taxation on corporate income; it must provide information on meeting the conditions for this particular form of taxation (employment information; additional information relating to capital and ownership issues among other things; accounting principles applied).

The CIT/EZ information is an appendix to the CIT-8E return. It therefore has the same filing deadline as the return itself.



In short:

Epidemiological emergency extended until the end of September

↓ A revised regulation establishing certain restrictions, orders and prohibitions relating to occurrence of epidemic emergency entered into effect on 31 August. It extends the epidemic emergency until 30 September.

The European Union plans further changes to taxation of debt financing

↓ The European Commission has published a draft new directive that will introduce considerable changes to the taxation of debt financing. The draft includes two solutions: regarding the deduction of mortgage interest on equity, and limiting tax deductibility of debt finan-

cing. As envisaged, domestic laws, regulations and administrative provisions necessary to implement the directive will be published by the end of 2023 and will apply from 2024 on.

The Minister of Finance offers tax remitters a longer time to submit statements on WHT

↓ On 31 August 2022, the Regulation of the Minister of Finance on extension of certain deadlines for performance by tax remitters of their obligations with regard to Withholding Tax came into effect (Journal of Laws 2022, item 1829). The new regulations extend the expiration date of the statement on the withholding tax mechanism (WHT). The deadline has

been extended to the end of the tax year. At the same time, the deadline for filing a follow-up statement has also been extended. Here, the deadline has been extended to the last day of the month following the end of the remitter's tax year (previously, the deadline was the 7th day of the month following the expiration of two additional months).

Tax remitters will gain the right to claim refunds of overpayments in some cases

↓ The remitter's powers will be expanded to include the filing of a request for determination of overpayment in certain situations – an amendment to this effect to the Personal Income Tax Act has been prepared by the



Ministry of Finance. Once the amendment enters into force, the remitter will be entitled to apply for determination of overpayment of the flat-rate tax if such overpayment results from collection of that tax by the remitter. Currently, such a request may only be made by the taxpayer. The introduction of the changes is envisaged by a government bill amending the Act on corporate income tax and certain other acts. The draft was sent to the Sejm on 25 August 2022.

A new accounting standard on sales revenue

↓ The Accounting Standards Committee has published the National Accounting Standard "Revenue from the sale of products, semi-finished products, goods and materials". The new standard discusses in detail the principles for determination, recognition and presentation in the financial statements of revenue from the sale of products, semi-finished products, goods and materials, as well as certain revenue-related costs of negotiation and performance of a sales contract (Official Gazette of the Minister of Finance of 29 July 2022, item 81). Read more on this topic in our financial audit alert, available on our website.

More certificates will be obtainable via the e-tax office

↓ The Journal of Laws (item 1887) published a Regulation of the Minister of Finance amending the Regulation on the use of the e-tax office. It stipulates that the e-tax office shall handle matters involving the issuance of automatically generated: tax clearance certificates or statements of the amount of overdue tax (ZAS-W), certificates on the amount of a taxpayer's PIT income (ZAS-DF) and certificates on the amount of PIT revenue, income, tax due and deducted PIT social or health insurance contributions (ZAS-DFU). The new regulations are in force from 7 September 2022.

Starting 2023, there will be automatic enrollment in Employee Capital Plans (PPK)

↓ Starting 2023, employees will be automatically enrolled in PPK. The first such enrollment is to take place 2023, followed by further enrollments every four years. Interestingly, an employed person who submitted a declaration to the employing entity to opt out of making PPK contributions before the PPK agreement was concluded on their behalf will be subject to so-called repeated automatic enrollment in PPK. The automatic enrollment will not apply only to PPK participants who have stopped funding PPK contributions by submitting a resignation, but also to employed

persons who never became PPK participants.

MF amends CIT regulations and extends the anti-inflation shield

↓ An extensive amendment to income tax regulations, including, most notably, the CIT Act, has been sent to the Sejm. Among other things, it suspends the application of the minimum CIT for one year, and amends provisions on withholding tax or tax haven transactions. The amendment also extends the period of application of reduced VAT rates within the anti-inflation shield. The draft act will now reach the Sejm. Read more on this topic in our tax alert.

Ministry of Finance has released settlement forms for real estate companies

↓ On podatki.gov.pl website, the Ministry of Finance (MF) has made available interactive forms for real estate companies and partners of such companies who submit the CIT-N1 and PIT-N1 as well as the CIT-N2 and PIT-N2 information. To submit such information, a Polish tax ID NIP or Personal Statistical Number PESEL (in the case of a natural person) is required. Forms CIT-N1 and PIT-N1 provide information on entities with rights to the real estate company and are filed by real estate companies, while forms CIT-N2 and PIT-N2 provide information on rights to the real estate company and flow-through

entities and are filed by taxpayers who are partners in the real estate company.

There will be changes to wage subsidies for people with disabilities

↓ The Act on vocational and social rehabilitation and employment of persons with disabilities will set the minimum budget subsidy at 30 percent of the planned cost of subsidizing the salaries of the disabled. The Ministry of Labor and Social Policy explains that such a change will stabilize and make the financing of the State Fund for Rehabilitation of Persons with Disabilities (PFRON) more realistic. The new regulations will probably enter into force on 1 January 2023.

Works are underway on the next package of VAT changes included in the SLIM VAT3 package

↓ A package of changes referred to as SLIM VAT 3 has been submitted to the Sejm for deliberation. With the introduction of the new regulations, the Finance Ministry wants to increase the limit of the value of sales conditioning the small taxpayer status from EUR 1,200,000 to EUR 2,000,000. Thus more taxpayers would be eligible to use quarterly cash accounting. However, the simplifications do not end there. Among other things, the obligation to issue advance invoices and simplified proportional accounting are also to be aboli-

shed. Read more on this topic in our tax alert.

A new deadline for updating individual taxpayer data will be introduced

↓ The Finance Ministry intends to change the deadline for updating individual taxpayer data. The change will be introduced as part of a larger amendment to the Corporate Income Tax Act. Currently, such data is updated quarterly, while after the amendment the update will be done annually. The introduction of the changes is envisaged by a government bill amending the Act on corporate income tax and certain other acts. The draft was sent to the Sejm on 25 August 2022.



Important interpretations and rulings:

Once the electronic invoice has been issued, receipt is no longer necessary

➔ If the fiscal receipt documenting a transaction for which an electronic invoice has been issued is destroyed and a copy of the receipt is stored in the memory of the fiscal cash register, and the invoice can be linked to the issued receipt, the taxpayer meets the conditions provided for in the VAT regulations, which require that in such a situation, a sales receipt with data identifying the invoice should be "left" in the documentation – so tax ruling of 29 August 2022 (Ref. 0111-KDIB3-2.4012.373.2022.1.MN).

Outstanding benefit for former employee is not an indemnity

➔ The benefit paid to the former employee under a labor court judgment should be treated as an element of remuneration and qualify as taxable income from the employment relationship. The fact that the benefit in question was not defined as a salary or similar benefit does not automatically allow us to assume that we are dealing with compensation. It is irrelevant to this qualification that the benefit was awarded after termination of the employment relationship," the Supreme Administrative Court ruled in a judgment of 10 August 2022 (Ref. II FSK 105/20).

Toilet and shower allowance for drivers is included in the basis for calculation of social insurance contributions

➔ The allowance for the use of toilets and showers paid to drivers in international transport may not be excluded from the basis for calculation of social insurance contributions. Neither the Labor Code nor the general regulations on occupational

health and safety provide for payment of a cash allowance for the use of bathrooms and toilets or for incurring other costs related to personal hygiene. Thus, there is no legal basis for concluding that such benefits in kind arise from the OSH regulations" – so the individual interpretation of the Social Insurance Institution (ZUS) of 17 August 2022 (Ref. DI/100000/43/694/2022).

Pre-2022 depreciation with no impact on health insurance contribution amount

➔ In the case of the sale of fixed assets that were depreciated before 2022 for PIT purposes, when determining the income from their disposal against payment for the purpose of calculation of the health insurance contribution, such income will not be increased by depreciation deductions made before 2022 that were included in deductible expenses – so the Social Insurance Institution in an individual interpretation dated 3 August 2022 (Ref. WPI/200000/43/882/2022). Therefore, ZUS shared the entrepreneur's position that the basis for calculating the health insurance contribution is the income from principal business activity earned in a given year.

A part of the property tax paid can be recovered

➔ In recently published grounds for judgment of the Supreme Administrative Court (NSA) of 24 May 2022 (Ref. III FSK 590/21), the Court stated that when determining the clear height of a story, the distance measured from the ground to the lowest permanent structural element of the ceiling should be taken into account. Thus the Court disagreed with the tax authorities' interpretation of storey, where the distance from the ground to the highest point of the room is taken into account, which results in an actual division of the tax base into parts under and between structural beams. Read more on this topic on our website.

CALENDAR (most important deadlines)

- ✓ payment of ZUS contributions for August 2022 - other contributors
- ✓ payment for August 2022 of the monthly tax withholding towards personal and corporate income tax
- ✓ payment for August 2022 of income tax withholdings on revenues under the employment relationship
- ✓ payment for August 2022 by remitters of withheld advance income tax or flat-rate income tax
- ✓ payment by the parent company representing the tax capital group of tax withholding for August 2022
- ✓ payment of the flat-rate tax due, if in August 2022 the income from dividends and other participation in the profits of legal entities was spent contrary to its purpose specified in the statement (CIT-5)
- ✓ payment of tax withholding for August 2022 by a real estate company (PIT-ISN and CIT-ISN)
- ✓ payment for August 2022 of income tax on revenues from a fixed asset being a building
- ✓ contribution to PFRON for August 2022



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- ✓ payment of VAT for August 2022
 - ✓ filing of VAT-8, VAT-9M, VAT-12 returns for August 2022
 - ✓ sending of JPK_V7M file for August 2022
 - ✓ sending of JPK_V7M file for August 2022 (records)
 - ✓ submission of summary information on intra-community EU VAT transactions for August 2022
 - ✓ filing of VAT-13 return for August 2022
 - ✓ submission to PFRON of documents relating to subsidies to disabled employees' remuneration for August 2022
 - ✓ settlement of sugar tax due for August 2022
 - ✓ settlement of retail tax due PSD-1 for August 2022



CALENDAR

SEPTEMBER 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					

- ✓ submission to PFRON, by disabled persons conducting business activity, of the request for reimbursement of old-age and disability pension contributions paid for August 2022
- ✓ transfer to a separate bank account of the Company Social Benefits Fund (ZFSS) of the remaining portion of write-offs and increases
- ✓ submission to Head of the National Tax Administration (by electronic means) of the transfer pricing information TPR-C whose deadline for submission expired between 1 February 2022 and 30 June 2022
- ✓ submission to the tax office (by electronic means) of a statement on preparation of the local transfer pricing documentation, whose deadline for submission expired between 1 February 2022 and 30 June 2022
- ✓ submission to the tax office of the following returns: CIT-CFC for 2021 by a taxpayer whose tax year coincides with the calendar year, and payment of the resulting tax due; PIT-CFC for 2021 and payment of the resulting tax due
- ✓ approval of the financial statements for 2021 at an entity whose business year corresponds to the calendar year
- ✓ submission of information on real estate companies whose tax or business year ended between 31 December 2021 and 31 May 2022, by real estate companies, PIT payers and CIT payers
- ✓ filing the CIT-8E return for the tax year that ended between 1 December 2021 and 31 May 2022.



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- ✓ payment of flat-rate income tax withheld in September 2022 on revenues from dividends and other participation in the profit of legal persons, and providing CIT-7 information to taxpayers
 - ✓ payment by the acquiring company of a flat-rate tax on income arising in September 2022
 - ✓ filing the return on income from unrealized gains (PIT-NZ and PIT-NZS) for September 2022
 - ✓ filing of CIT-NZ return on income from unrealized gains for September 2022 and payment of tax due under such return



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- ✓ submission of INTRASTAT notification for September 2022



- ✓ payment of Social Insurance contributions for September 2022 by corporate contributors
- ✓ payment to PPK



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 Services & Outsourcing
 Department

CALENDAR



O BDO

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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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We will be happy to meet your needs and offer support.