

# Ministry of Finance forces tax remitters to perform double calculations of tax advances

## I. Explanations issued on collection of tax advances

The Ministry of Finance has issued explanations on 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 decree went into effect on 8 January 2022 and for some remitters extended the deadlines for the collection and payment of income tax advances, starting with the advances for January 2022. As a result, it is now necessary to calculate income tax advances twice: according to the provisions of the Polish Deal, and according to the rules that had applied in 2021. The extension of the deadlines referred to in the decree applies to income generated from 1 January 2022 to 31 December 2022, which means that double calculations will have to be performed throughout 2022. The decree applies when a taxable person's monthly income earned through the tax remitter does not exceed PLN 12 800, with the limit applied to each source of income separately.

## II. Decree defers collection of advance so taxable person does not lose on Polish Deal

The decree has extended the deadline for the calculation and payment of by tax remitters who are employers and service recipients of some of the personal income tax advances from taxable persons who, through those tax remitters, earn taxable income from a service relationship, employment relationship, outwork or cooperative employment relationship, cash benefits from the social insurance office paid by employer, and in the case of worker cooperatives – payments from shares of the balance sheet surplus. Importantly, the decree does not change the rules of taxation, including the calculation of advances defined in the PIT Act, but only postpones the collection and payment of the advances. It specifies the situations in which the remitter will not collect a portion of the monthly advance, as well as when it should be collected and paid.

## III. Decree may be opted out of only at taxable person's request

The decree requires tax remitters to apply it. However, some taxable persons may opt out of paying lower advances in the course of the year and submit a request to the remitter to not defer the collection deadlines. This may be done by those taxable persons with respect to whom the remitter does not apply 1/12 of the standard deduction when collecting advances, i.e. service providers or those with multiple jobs who earn income from several employers, or employees who have not submitted, or have withdrawn PIT-2 declarations. To opt out, an employee must file a written request to not extend the deadlines for the collection of tax advances. The remitter will stop applying the decree no later than from the month after receiving the request. It is also possible for the request to be implemented in the month of its submission (that month the remitter will still pay the amount subject to taxation), but if this does not take place, the remitter will stop applying the decree from the following month.

The Ministry of Finance first issued a decree, and then explanations to the decree, clarifying how, in the ministry's opinion, the remitters of tax advances on, among others, contracts of employment and service contracts, are to calculate and pay them to the tax office throughout 2022.

In consequence, each advance has to be calculated twice. The provisions of the decree will also be added to the PIT Act – the amendments have already been sent to the Senate.



## IV. New advance calculation method to be applied by employers and service recipients

In accordance with PIT regulations, an employer is a natural person, legal person and an organizational entity without legal personality that as a tax remitter is required to throughout the year calculate and collect income tax advances from persons who receive income from that employer from a service relationship, employment relationship, outwork or cooperative employment relationship, cash benefits from the social insurance office paid out by employer, and in the case of worker cooperatives – payments from shares of balance sheet surplus.

## V. Advances may only be deferred on monthly income of no more than PLN 12 800

As mentioned above, the decree applies when the monthly income earned by the employee through the remitter does not exceed PLN 12 800. This limit is applied to each source of income separately. Such sources of income for which the limit is determined separately are: source I – service relationship, employment relationship, outwork or cooperative employment relationship, cash benefits from the social insurance office paid by employer, and in the case of worker cooperatives – payments from shares of balance sheet surplus; source II – service contracts; source III – retirement and disability, pre-retirement benefits, teacher’s compensation benefits, structural pensions, social pensions and parental supplemental compensation benefits; source IV – cash benefits from the social insurance office. And so, if a person receives income from, for example, a contract of employment and from service contracts, then each of those contracts is subject to a separate PLN 12 800 monthly limit.

## VI. Deferral applies to portion of advance that would reduce wage compared to 2021

The decree extends the deadline for the collection and payment of personal income tax advances on a specific portion resulting from a comparison of tax advances calculated using two different methods: the methods in effect in 2022, i.e. after the effective date of the Polish Deal, and the methods in effect in 2021. Thus the deferral only applies to that portion of the advance, which constitutes the difference between the advance calculated in accordance with the methods in effect in 2021 and that calculated using the new methods in effect as of January 2022. If, therefore, an advance calculated in accordance with the new rules amounts to, for example, PLN 500, whereas an advance calculated in 2021 on the same tax base would have amounted to, for example, PLN 300, the deferral applies to PLN 200 (500 – 300). In this situation, the tax remitter collects an advance in the amount of PLN 300, and the remaining PLN 200 will be collected later. Importantly, while calculating advances using the two different methods, the remitter applies the specific taxable person’s actual state of affairs as at the 2022 advance calculation date.

## VII. Advance must be calculated in accordance with Polish Deal rules

An advance calculated in accordance with the Polish Deal is an advance calculated in accordance with the rules in effect in 2022, i.e. with the tax remitter’s consideration of tax-deductible costs (unless the taxable person has opted out of their application by filing a request), relief (e.g. portion of social insurance premiums financed by the taxable person, middle class relief, unless the taxable person has opted out of its application) and exemptions (including: “4+ family relief”, “repatriation relief” or “senior relief”, if the taxable person has requested that they be applied), as well as using the new tax scale parameters (with rates of 17% and 32%, income threshold of PLN 120 000 and 1/12 of the standard tax deduction in the amount of PLN 425 – as long as the remitter is authorized to deduct it).



## VIII. Advance must also be calculated in accordance with 2021 rules

An advance calculated in accordance with the rules in effect in 2021 is an advance calculated with the tax remitter's consideration of tax-deductible costs (unless the taxable person has opted out of their application by filing a request), portion of social insurance premiums financed by the taxable person, and using the tax scale parameters from 2021 (with rates of 17% and 32%, income threshold of PLN 85 528 and 1/12 of the standard tax deduction in the amount of PLN 43,76, as long as the remitter is authorized to deduct it), as well as reduced by the tax-deductible health insurance premium (7,75% of the premium's calculation base). It should be remembered that the standard deduction of PLN 43,76 was in previous years applied to income (counting from the start of the year) of no more than PLN 85 528. This rule must also be considered when calculating advances in accordance with the old rules.

## IX. Amount to be collected determined by comparing advances calculated using rules from 2022 and 2021

After advances are calculated using two different methods, they need to be compared. If the advance calculated under the Polish Deal exceeds the advance calculated using the old rules, there is a surplus to be deferred in time. The remitter collects the lower advance i.e. that calculated using the old rules. The surplus is deferred up until the month in which a negative difference arises when the two advances are compared, i.e. the advance under the Polish Deal is lower than the advance calculated using the old rules. At that point, the remitter collects the Polish Deal advance and the surplus from the prior months, but no more than the amount calculated using the old rules. Whereas if the amount of the deferred surplus has not been collected in full, deferral of that portion of the surplus is continued in subsequent months with a negative difference.

Example of how to calculate the deducted portion of an advance under the provisions of the decree:

Month	Advance 2021	Advance 2022	Deferral cumulatively	Payment to tax office
January	400	500	100	400
February	400	500	200	400
March	420	500	280	420
April	420	500	360	420
May	400	500	460	400
June	400	400	460	400
July	450	400	410	450
August	500	400	310	500
September	500	400	210	500
October	500	400	110	500
November	500	400	10	500
December	500	400	0	410



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