

BS&O ALERT



Information

New law on collective labor agreements

In mid-February the government published a draft bill on collective labor disputes (paper UD408). As stressed in the explanatory statement, the proposed changes are meant to adapt the law to changing market conditions and to prevent actions viewed as harmful to the relations between employers and trade unions representing the interests of employees.

The bill provides for a departure from defining the subject of a collective labor dispute in enumerative terms. The future law will set out the rules for initiating, conducting and resolving a collective labor dispute, which under the proposed definition will be a dispute between those in gainful employment and their employers over collective union rights or freedoms, as well as professional, economic or social collective interests or rights associated with performing work. As a result, a dispute will be possible with regard to all the collective issues in which trade unions represent employees.

In addition, the new bill calls for the introduction of a requirement to choose a group of trade union representatives in order to initiate and conduct a collective dispute. Currently binding regulations give the right to initiate and conduct a collective dispute to every

union organization. Where several trade organizations operate at a given employer, it may be difficult to reach an agreement. For this reason, the new bill proposes a requirement for the formation of a coalition of unions in an ongoing dispute. In consequence, the new regulations provide for the introduction of a procedure whereby the other unions will have to be notified of the submitted demands in order to hold joint negotiations. In the absence of an agreement as to joint representation - negotiations will be held on the condition that at least one representative organization is involved.

The bill will also regulate dispute duration. Existing regulations do not specify the maximum duration, or an effective form of ending a dispute. Once a dispute is initiated, the parties often fail to take further action towards its resolution. This results in disputes lasting for several months or even years. This is why the bill proposes to precisely define dispute duration (9 months - extendable by 3 months). The dispute should end within this period with the preparation of relevant documents, or will expire by law after the end of the period.

The bill also calls for preventive mediation. Under currently binding regulations, negotiations to resolve a collective dispute through an agreement are only held by the parties to the dispute, without the participation of third parties. In consequence, by the time the parties move on to mediation the conflict between them is so strong that they are unable to reach an agreement. Therefore, to

make an agreement possible at the earliest possible stage of the dispute, the bill proposes the introduction of the institution of preventive mediation to keep the conflict from escalating during negotiations. It is to make it possible for the parties to use the professional support of an impartial person in reaching an early agreement, which in turn may contribute to an increase in the number of agreements reached at this dispute stage.

The new regulations will also make changes in the keeping of a list of mediators by the minister of family and social policy. The list will be prepared by the minister based on requests made by those interested in being added to the list. In addition, as regards the act on resolving collective disputes, the list will not be consulted with social partner organizations.

The bill will go into effect 1 month after its publication in the Journal of Laws.



Right to occasional remote work not tied to taking annual leave

An employee's right to request occasional remote work is not conditioned on his use of annual leave, including so-called leave on demand.

In response to interpellation number 38835, the minister of family and social policy has provided an explanation on issues associated with occasional remote work.

The minister reiterated that under the new regulations, remote work may be performed occasionally, on the employee's request submitted in paper or electronic form, for no

more than 24 days per calendar year. The objective of introducing this institution to the Labor Code was to enable employees to request remote work in situations justified solely by the interest (need) of the employee, e.g. if the employee has to take care of a family member requiring emergency assistance. The minister also stressed that although the regulations contain no subjective limitations when it comes to requesting occasional remote work, it needs to be noted that the nature of some jobs is such that they cannot be performed outside the location indicated in the employment contract. And so, in accordance with the regulations, remote work does not cover: particularly hazardous work; work that involves exceeding the acceptable norms of physical elements for residential premises; with the hazardous chemicals referred to in occupational health and safety regulations; work that involves the use or release of harmful biological agents, radioactive substances, or other substances or mixtures that emit noxious odors; work that involves intensive staining.

According to the minister's response, an employee's request for occasional remote work will not be binding for the employer, so the employer may refuse to grant it. In particular, the employer may refuse to grant it when the performance of remote work is not possible due to work organization or the type of work performed by the employee. The employer's refusal to grant occasional remote work cannot be discriminatory in nature.

In addition, the minister clarified that an employee's right to submit a request for occasional remote work is not conditioned in his use of annual leave, including the so-called on-demand leave. The essence of occasional remote work is to make it possible for the employee to perform work at a place he has indicated (other than the workplace) in situations justified by that employee's needs, e.g. if the employee has to take care of a family member requiring emergency support.



No overtime during business travel

Business travel occurring outside of “working time”, or more specifically outside the employee’s work schedule, does not result in additional pay. If, however, after using all of his “working time” for a business trip the employee still continues to perform some specific work, he is entitled to additional pay for that work.

The issue of how to include business trips in working time is not currently directly regulated in a specific provision of the Labor Code - the minister of family and social policy explained in response to parliamentary interpellation number 38514.

The provisions of the Labor Code only indicate that working time is the time the employee remains at the disposal of the employer

in the workplace or at another designated place of work. Whereas a business trip is defined as the performance of a work task by an employee on the orders of the employer, outside the town of the employer’s place of establishment or the employee’s permanent workplace. The employee is then entitled to receivables to cover the costs of the business trip: a per-diem allowance, reimbursement of the costs of travel to and from, overnight accommodations and other expenses specified by the employer as needed.

The matter of the proportion of business trip time to an employee’s working time has been the subject of several Supreme Court rulings, in which the court has interpreted the Labor Code provisions that define working time and a business trip. In the case of a business trip - as defined in Article 775 of the Labor Code - the Supreme Court rulings indicate that a business trip does not in itself constitute work performance. Although taking a business trip on the orders of a supervisor as part of an employee’s working time is tantamount to performing work during that time, the opposite is not, i.e. taking a business trip outside of the employee’s work schedule does not transform the trip into work or into “working time” as defined in Article 128 of the Labor Code. Only a business trip taken as part of an employee’s work schedule may be considered work performance - even if it is a work schedule set individually for that employee in accordance with Article 131 § 2 of the Labor Code (currently Article 142 of the Labor Code). In consequence - if a special provision does not state otherwise - taking a business trip outside of “working time”, and more specifically outside the employee’s work schedule, does not result in additional pay for the employee. If, however, after using all of his “working time” for a business trip the employee still continues to perform some specific work, he is entitled to additional pay for that work, as referred to in Article 134



of the Labor Code (currently Article 151[1] of the Labor Code). This additional pay will then correspond to the time during which that specific work was still being performed by the employee (Supreme Court ruling of 21 September 1982, I PR 85/82).

At the same time, case law indicates that in certain circumstances, employee working time should also include the time of work-related travel. At the same time, the Supreme Court has ruled that: “employees whose work intrinsically involves travel over a certain area do not take business trips.” Given the binding regulations and court rulings, each situation should be assessed indi-

vidually as to what part of the time spent by the employee on travelling to the destination of a business trip and returning from the business trip is to be considered working time. In view of the above it is fair to say that the adoption of a rule whereby included in the employee’s working time is the time spent on traveling to and from the place of performance of a task arising out of a business trip occurring outside of the employee’s work schedule, and thus in each case the employee is remunerated for that time, would require changes to binding regulations. The ministry is not, however, working on such changes.



In short:

CIT returns due by end of June

↓ Not 31 March 2023, but 30 June 2023 will be the final deadline for the filing of the declaration on the amount of income earned or loss incurred in the tax year ended between 1 December 2022 and 28 February 2023 (CIT-8, CIT-AB). Those taxable with flat-rate tax on corporate income (so-called Estonian CIT) get an extension of the deadline to file CIT-8E - declaration on the amount of income earned and flat-rate tax due. Whereas the deadlines for the preparation of financial statements will not be extended. [More on this on our web site.](#)

New VAT regulations for payment service providers

↓ The government's draft of amendments to the VAT Act and certain other acts has

been sent to the Sejm. Payment service providers will be required to keep quarterly records of cross-border payments and payees. The new obligations are to help with combatting VAT fraud in e-commerce and should go into effect at the start of 2024. More on this in our tax alert.

Senate for reimbursement of electric car costs

↓ The Senate's draft bill amending the Road Transport Act has been sent to the Sejm. The bill provides for changes relating to the use of private cars for business purposes related to the performance of work for an employer. Once the changes go into effect, employees would be able to get a reimbursement of the costs when an electric, hybrid or hydrogen-powered car is involved.

The car's engine displacement would also be considered when determining the rate of reimbursement (so-called mileage).

APA-C filing deadline extended until the end of June

↓ The deadline for the filing of reports on the performance of advance pricing agreements (form APA-C) will change due to the extension of the deadline for the filing of the declaration on the amount of income earned or loss incurred in the tax year - CIT-8. In accordance with binding regulations, taxable persons who have been issued an advance pricing agreement (APA) file reports (APA-C) on the performance of the agreement for each tax year covered by the APA, by the relevant tax return filing deadline. [More on this on our web site.](#)



New pension calculator on ZUS PUE platform

↓ The ZUS PUE electronic services platform makes it possible to prepare a simulation of future pension benefits granted under new rules. The simulation enables the performance of calculations for those who want to check what benefits they would get if they chose to retire this year. The calculator, which is available on ZUS PUE and at pension advisors (during e-visits, phone consultations or at ZUS offices), is for those who have not yet been granted pension benefits.

ZUS provides a health insurance premium calculator

↓ ZUS has launched a tool for the calculation of the annual health insurance calculation base and premiums for non-agricultural traders. The calculator enables the calculation of the annual base and premiums: for those who conduct one or more non-agricultural business operations, to which the following forms of taxation are applied: general rules (tax scale, flat-rate) and flat tax on registered income, including those who apply “start up relief, “preferential pre-

miums” and “small ZUS plus”.

History of filed returns available in e-tax office

↓ A function has been added to e-tax office (e-US) that allows taxable persons to view, download and print their electronically filed returns. Taxable persons can view their returns filed for 2019 and the subsequent years. The following forms are available: PIT-16A, PIT-19A, PIT-28, PIT-36, PIT-36L, PIT-37, PIT-38, PIT-39, PIT-OP, DSF-1, PIT-DZ, PCC-3, PCC-3/A, SD-Z2, SD-3 and SD-3/A along with attachments. Taxable persons can view an e-filed form, download it as an.xml file and print it in the .pdf format. The printout will show the document (reference) number.

PIP to inspect remote work performance

↓ The National Labor Inspectorate will this year collect and analyze data on both the equivalents and the very conditions of performing remote work, set out in the regulations adopted by workplaces. Amendments to the Labor Code and to certain other acts have introduced, among other things, an obligation for employers to reimburse the costs of telecommunications services, materials, work tools, including technical devices and electricity.

New reporting standard must already be applied by insurers

↓ International Financial Reporting Standard 17 (Insurance Contracts) went into effect at the start of 2023 and replaced the previously applicable IFRS 4. The objective of IFRS 17 is to ensure better transparency and comparability of insurance company financial statements, whilst the previous standard allowed for more discretionary practices. The new standard also makes changes to the recognition of outward reinsurance contracts, levels of aggregation and time recognition of profits or losses from insurance contracts.

Real estate company information due by end of March

↓ A company recognized as a real estate company is required to electronically file information about its partners for the previous tax year (using forms CIT-N1 and PIT-N1, respectively) with the relevant tax office by the end of the third month following the end of its tax year (or financial year for entities that are not CIT taxable persons). Taxable persons - the real estate company's partners, are required to by the same deadline electronically file information about their shares or other ownership rights (on forms CIT-N2 or PIT-N2). Therefore, if the company's tax or financial

year is concurrent with the calendar year, the deadline is 31 March 2023.

Tax authorities cannot share financial statements data

↓ The Ministry of Finance has stated that financial statements filed with the Head of KAS are protected by confidentiality as defined in the Tax Ordinance - which prevents them from being disclosed under the Access to Public Information Act. Confidential tax information may only be disclosed to the taxable person to whom it pertains or to authorities authorized by separate regulations (to obtain a copy of your financial statements, contact the relevant tax office). The Head of KAS is also not authorized to provide information on whether an entity has complied with the obligation to file financial statements.

New amounts of one-time compensation for work related accidents

↓ The amounts of one-time compensation for work related accidents or occupational diseases effective from 1 April 2023 to 31 March 2024 have been published in the Polish Monitor (item 252). One-time compensation is due to an insured who as a result of an accident at work or occupational disease has suffered a permanent or long-term health impairment. A permanent health impairment is an impairment of bodily functions that causes permanent loss of bodily functions, which does not promise improvement. Whereas a long-term health impairment is an impairment of bodily functions that causes a loss of bodily functions for a period exceeding 6 months, which may improve.

Change in regulations on tax information

↓ The minister's of finance decree of 16 February 2023 amending the decree on tax information has been published in the Journal of Laws of 6 March 2023 in item 422. The decree (§1 point 1) extends from three to eleven months the deadline for the submission of information on agreements concluded with non-residents (ORD-U) to the tax authorities. The extended deadline applies to information ORD-UD filed for a tax year beginning after 31 December 2021. The decree goes into effect 14 days after its publication in the Journal of Laws, i.e. on 21 March 2023. The change aligns the deadline for the filing of ORD-U with the deadline for the filing of transfer pricing information (information TPR), so that in both cases it is the end of the eleventh month after the end of the tax year.



Important interpretations and rulings:

Expansion relief only for taxable person's own products

➔ In accordance with the provisions of the CIT Act, a taxable person who earns revenues other than revenues from capital gains deducts from the tax base the tax-deductible costs incurred in order to increase revenues from the sale of finished products (items produced by the taxable person) up to the value of the income generated by the taxable person in the tax year from revenues other than revenues from capital gains, but no more than PLN 1 million in a tax year. "Products" defined as "items produced by the taxable person" are to be understood to mean items that have been independently, directly and fully produced by the taxable person for the purpose of their sale. This definition does not include items purchased and then resold by the taxable person, even under the taxable person's own brand - states a ruling issued by a Voivodship Administrative Court on 18 January 2023 (case file I SA/Bk 497/22).

Cost may be recognized later than on invoice date

➔ The latest general interpretation of the minister of finance, dated 23 February 2023 (DD2.8202.3.2022), on the recognition of tax-deductible costs in the revenue and expense ledger, explains the rules for the deduction of tax-deductible costs by taxable persons who keep a tax revenue and expense ledger. The interpretation indicates that an accounting document underlying a posting (recognition) of a tax-deductible cost, received by the taxable person or submitted to an accounting office at a date later than the issue date, may be posted (recognized) in the

tax revenue and expense ledger in the month in which it was received by the taxable person or submitted to the accounting office. This should occur by the end of the tax year in which the cost can be deducted. More on this on our web site.

ZUS explains how to calculate premium after change in the form of taxation

➔ Where the form of taxation is changed from flat-rate to tax scale in the course of the contribution year (from 1 February of a given year to 31 January of the following year), the premiums for the first month following the change are accounted for in accordance with the new rules, in the same way as for a start-up trader. The premium for January 2023 (payable in February 2023) should therefore be calculated on a premium base corresponding to the minimum wage in effect on the first day of the contribution year, as the trader had had no tax scale income in December 2022 - indicates an individual ZUS interpretation issued on 2 March 2023 (case DI/200000/43/172/2023).

Period before registration also eligible for full VAT deduction

➔ A VAT taxable person is eligible for a reduction of output VAT by 100% of input VAT on expenses associated with the purchase of a car, as well as the expenses incurred for its operation, also for the period from the date of its purchase to the date of its registration, if no changes were made to the car and the car was only used for VAT taxable purposes - states a ruling issued by the Supreme Administrative Court on 11 January 2023 (case file I FSK 882/19).

CALENDAR (most important deadlines)

- ✓ Payment of VAT for February 2023
- ✓ Filing of VAT-8, VAT-9M, VAT-12 for February 2023
- ✓ Transmission of SAF_V7M for February 2023
- ✓ Transmission of SAF_V7K for February 2023 (record and declaration section)
- ✓ Submission of recapitulative statement on VAT EU intra-Community transactions for February 2023
- ✓ Filing by tax representative of VAT-13 for February 2023
- ✓ Reporting of sugar tax for February 2023
- ✓ Reporting of retail sales tax PSD-1 for February 2023
- ✓ Submission to PFRON of documents relating to additional financing of the wages of disabled employees for February 2023



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- ✓ Submission to tax office (electronically) and to CIT taxable person without registered office or management in the territory of the Republic of Poland of information on the amount of revenue (income) earned IFT-2R for 2022
 - ✓ Submission to tax office of information CIT-RB and CIT-CSR for 2022 - if the taxable person's tax year is the calendar year
 - ✓ Submission to the head of the relevant tax office: by real estate company, of information CIT-N1 and PIT-N1, and by taxable person who is a partner in that company, of CIT-N2 and PIT-N2, as at 31 December 2022 - if the tax year or financial year of the real estate company is concurrent with the calendar year
 - ✓ Submission (electronically) to the Head of National Tax Administration of transfer pricing information TPR-C, for which the filing deadline passed in December 2022
 - ✓ Submission (electronically) to the tax office of declaration on the preparation of local transfer pricing documentation, for which the filing deadline passed in December 2022
 - ✓ Preparation of annual financial statements for 2022 by an entity whose financial year is concurrent with the calendar year
 - ✓ Filing of VAT declaration relating to import procedure VII-DO for February 2023



CALENDAR

MARCH 2023						
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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- ✓ Payment of lump-sum income tax collected in March 2023 on dividend income and other amounts from shares of profits of legal entities, and provision of CIT-7 to taxable persons
 - ✓ Payment by acquirer of lump-sum income tax for March 2023
 - ✓ Filing of declaration on amount of income from unrealized profits (PIT-NZ and PIT-NZS) for March 2023
 - ✓ Filing of declaration on amount of income from unrealized profits CIT-NZ for March 2023 and payment of output tax indicated in the declaration



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- ✓ Filing of INTRASTAT for March 2023



- ✓ Payment of ZUS premiums for March 2023
- remitters with legal personality
- ✓ Payment to PPK



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CALENDAR



§ O BDO

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- ▶ tax services (tax compliance),
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- ▶ 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.