

Dear Readers,

We are happy to present the September issue of *HR Perspectives*.

First we explore the topic of working remotely from another country, which is especially trending in the current pandemic situation. On the one hand, employees want to spend time with their families, in their home countries. On the other, travel restrictions are still in place. Further, we offer some insights about what employers must do and consider before they let an employee work remotely from another country. The crux of the matter is to remember that even though the work is performed remotely, it is governed by the law of the country where it is performed.

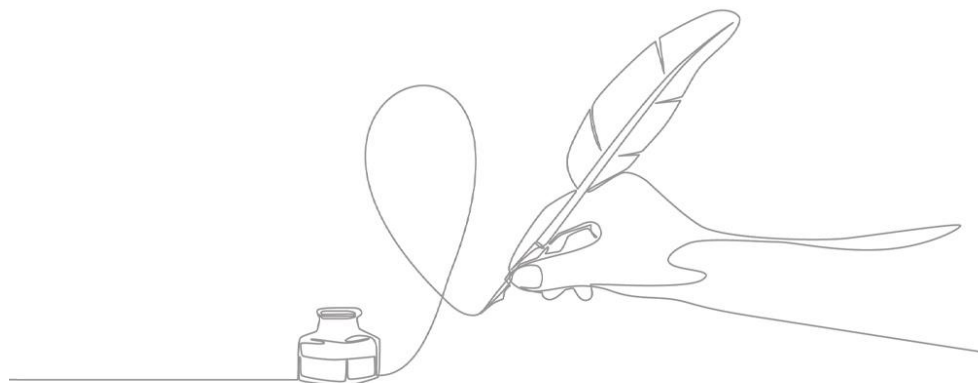
This issue also provides information on how to account for subsidies received under the anti-crisis shield. We discuss, step by step, the procedure applicable to employers who have used the wage subsidy. We dispel any lingering doubts regarding this matter.

We also comment on the General Interpretation issued by the Minister of Finance on the application of 50% rate of tax deductible costs to royalties. In particular, we explain below what are the rules for transferring copyright from employee to employer and how to determine the royalty amount.

We are also happy to present HR in the cloud - the latest PCS | Littler project. Every week on our LinkedIn website we discuss the most interesting issues and solutions related to HR digital transformation.

Enjoy your reading!

**Sławomir Paruch,
Robert Stępień**



Working remotely from another country

The coronavirus pandemic has caused many people to embrace remote work as the new normal. In order to meet employee expectations, employers are more willing to let their employees work remotely even from another country, be it a home country or the country where the employee's family is currently based.

Things to consider before agreeing to remote work include, i.a., the necessity to obtain relevant permits and to fulfil the minimum conditions required by local employment law, as well as the possible tax, social security or additional administrative obligations. Moreover, typical legal issues related to remote working should be properly worked out, including the duty to provide an employee with the equipment necessary to perform work or to reimburse the employee for the equipment-related expenses incurred. Other things to consider are the rules on data protection, OHS duties and liability for accidents at work.

We recommend, in particular, introducing internal regulations for working remotely from another country, setting out basic rules in this respect. The next step would be to find out all there is to know about the rules for performing work in a particular country and the basic duties in this regard. Finally, having considered all the organisational problems and costs that the employer may face, make the decision on whether or not to let an employee work remotely from that country. We effectively implement and manage such projects for our Clients.

Accounting for anti-crisis shield subsidies

Employers who were granted wage subsidies under the Guaranteed Employee Benefits Fund pursuant to the anti-crisis act are obliged to account for the subsidy within 30 days after they ceased to receive it (subsidies granted by a starost excluded).

Carrying out this process is challenging, especially considering the complexity of the fill-in forms and doubts about, among others, the deadline to account for the subsidy. Sometimes several weeks pass between applying for the subsidy and receiving the funds. If an employer received the funds later than in the month for which they were granted, the deadline to account for the subsidy remains open to question.

In practice, regional employment offices have taken the position that if the date of the last transfer of funds is later than the end of the period covered by the subsidy, the funds should be accounted for within 30 days from the date of transferring the funds to the employer's bank account.

The subsidy must be accounted for through the Praca.gov.pl website by filling in an electronic form and a report file containing data of each employee. Report files for both types of subsidy are available now. After filling in the file with data on wages, the amounts due and the possible refund will be calculated automatically.

To complete the report, an employer should also submit the list of employees included in the subsidy application (the list is drawn up before the application is submitted as the subsidy amount is calculated based on that list), the confirmations of remuneration transfers to employees covered by the subsidy, as well as the confirmations of transfers on account of the income tax and social insurance contribution advance payments. This will allow for a preliminary verification of whether the funds were used correctly.

Having submitted the report to the employment office, the unused amount of the subsidy should be returned. In order to do so, the unused funds should be transferred to the same bank account from which they were received.

Neither the law nor the subsidy agreement stipulate the consequences of failure to meet the deadline to account for the received subsidy. A possible consequence may be the payment of interest if the unused funds are returned after the due date. Moreover, if the subsidy is not accounted for on time, it may be subject to inspection.

50% rate of tax deductible costs - IT industry must regulate software copyright transfers

At last, the Finance Minister (FM) issued its long-awaited General Interpretation on the application of 50% rate of tax deductible costs to royalties. The interpretation clarifies the rules for transferring copyright from an employee to an employer as well as for determining the amount of royalties and documenting the creation of a work.

In its interpretation, the FM clearly indicated that in order to apply 50% rate of tax deductible costs to revenues from the use of copyright and related rights by authors, it is necessary to:

- 1) create a work which is the subject of copyright and be able to provide the evidence to prove its creation (it may be a statement of an employer and an employee confirming the performance of creative work),
- 2) clearly separate the royalty from other remuneration components.

The FM also confirmed that the royalty may be calculated based on the time spent by the author-employee on the creation of the work. However, in such a case it is necessary to keep a record of both the time spent on creative work and the works created.

Furthermore, the MF pointed out a very important aspect of copyright management, concerning the employment of software developers. In their case, if not otherwise specified, the copyright on software developed while performing work under the employment relationship is held by the employer, which constitutes the original acquisition of ownership. As a result, the employee is not the holder of the copyright, which prevents the employee from applying the 50% rate of tax deductible costs. However, it is possible to facilitate the secondary acquisition of copyright by the employer. In order to do so, the transition of copyright between employer and employee must be regulated in the employment contract in a way that is different from statutory solutions. Employers in the IT sector should therefore remember that applying the 50% rate of tax deductible costs requires modifying the rules for acquisition of copyright.

HR in the Cloud - knowledge fitted for the 21st century

Our team at PCS Paruch Chruściel Schiffter | Littler Global is constantly driven by the need to avidly seek modern and effective solutions in HR law. Solutions that not only support our clients in their daily work process management in the times of the pandemic but also focus on employee safety and data protection. There is no denying that most HR activities must now be carried out online. This means new challenges for both employers and HR departments.

Every Friday we share with you our knowledge and experience related to the HR law digitisation, free of charge on our [LinkedIn](#) profile. We discuss practical solutions, regarding in particular:

- Concluding and terminating employment contracts online
- Digitising HR documents
- Shaping relationships with trade unions in the times of the pandemic and online meetings
- Adjusting the working time and overtime management systems for remote working.

Let's meet online!



Labour Code 2020

This autumn brings the 2020 edition of the Polish Labour Code with a commentary on the most significant changes, published under the auspices of *Dziennik Gazeta Prawna*. Authors: Robert Stępień, attorney at law; Paweł Sych, attorney at law; Agnieszka Nicińska, trainee attorney at law. More [here](#).

Employment Restructuring 2020

A handbook published under the auspices of *Rzeczpospolita*. Authors: Sławomir Paruch, attorney at law; Karolina Kanclerz, attorney at law; Ilona Zacharska; Michał Bodziony. The handbook discusses such issues as:

- modification of employment conditions and benefit systems,
- working time management,

- effective use of anti-crisis regulations,
- implementation of remote working,
- employer branding during restructuring.

More [here](#).

PCS | HR MeetUp: HR in the cloud: Employment contracts in the digital age

Join us for another meeting in the PCS | HR MeetUp series. 20 October 2020, 11:00 am - 11:30 am. Hosted by Marcin Szlasa-Rokicki, attorney at law, and Bartosz Wszeborowski, advocate. More [here](#).



European Employer COVID-19 Survey Report

The Littler European Employer COVID-19 Survey Report, completed by over 750 HR executives and in-house counsel across Europe, is now available!

The report provides insight into the pandemic's impact on the future of the European workplace, including in the areas of remote work, employee wellbeing, managing vacation time and workforce reductions. Full report available [here](#).
