

## KEY CHANGES IN 2022 FROM AN HR LAW PERSPECTIVE

This year brings a slew of changes to employment law. Let us guide you through the key things happening in employment law in 2022.

### I. POLISH DEAL

As of 1 January 2022, the tax revolution designed to rectify social inequalities becomes a reality. The most important changes for employees are:

- **raising the tax-free amount** from 8,000 zł to 30,000 zł.
- **increasing the tax threshold:** 32% rate will apply to income above 120,000 zł per year; currently, it is 85,528 zł.
- **new tax exemptions**, including for:
  - taxpayers who transfer their place of residence to Poland and thus change their tax residence;
  - parents of at least four children;
  - working pensioners who, despite acquiring the right to a retirement pension, chose not to collect it.
- **tax relief for the middle class** - an employer will have to calculate the relief for each month the employee's income falls between 5,701 zł and 11,141 zł. In the annual settlement, the relief will be available to those earning between 68,412 zł and 133,692 zł gross. An employee who falls below or above this range even by 1 zł will not be entitled to use the relief. Employees can submit a request to their employer for not applying the relief.
- **change in the health contribution calculation** – currently, the health contribution is partially deducted from PIT (a monthly PIT advance payment is reduced by 7.75% of the health insurance contribution). As of 2022, no amount of the health insurance contribution will be deductible from personal income tax (this basically means an increase in the actual tax rate by 7.75%). The middle-class relief is supposed to make up for this increase.
- **company cars** - a tax charge on the private use of company cars will no longer be calculated based on engine capacity but engine power. The charge on cars with a maximum engine power of less than 60KW, as well as electric and hydrogen-powered vehicles is now 250 zł a month and 400 zł a month for all other vehicles.

## II. MINIMUM WAGE INCREASE

The minimum monthly wage this year is 3,010 zł gross (2,363.56 zł net) which means it is increased by 210 zł gross.

The minimum hourly wage for a contract of mandate is 19.7 zł gross (13.91 zł net), which is 1.40 zł gross more than in the last year.

The minimum wage rise will entail the increase in the wage-related benefits, such as the maximum amount of the severance pay, as well as night and downtime allowance.

## III. CHANGES IN BENEFITS

2022 also brings changes in social insurance benefits, especially in sick pay calculation.

### **Sick pay for the period of hospital stay**

This year, sick pay for the period of hospitalization will amount to 80% of the benefit assessment basis instead of 70%.

### **Sick pay after employment termination**

After the insurance expiry, sick pay will be paid for up to 91 days (previously 182 days). This rule will not apply to women unable to work during pregnancy. An applicable benefit period during employment remains unchanged.

### **Recalculation of the benefit assessment basis**

Beginning from 2022, the benefit assessment basis will not be recalculated if there was no break between benefit periods or if it was shorter than a calendar month. Currently, the assessment basis is recalculated if the break in drawing benefits is at least 3 calendar months.

### **Simpler rules for determining the benefit period**

Currently, if there are breaks in the inability to work, the previous period of inability to work is included in the benefit period provided that it is caused by the same illness and the break is no longer than 60 days. As of this year, the reason for the inability to work before and after the break will not be relevant.

### **Right to benefits despite delay in payment of contributions**

From 1 January 2022, late payment of contributions will no longer result in loss of voluntary sickness insurance cover. New regulations will make it possible for persons who become incapable of work during the period for which they are in arrears with contributions higher than 1% of the minimum monthly wage to acquire the right to the benefit. They will no longer have to submit applications to the Social Insurance Institution (ZUS) for permission to pay contributions after the deadline. They will acquire the right to the benefit after the overdue contributions are settled. However, if they fail to pay it up within 6 months from the day on which the right to the benefit arises, the right will expire.

#### **IV. THE WHISTLEBLOWER ACT**

17 December 2021 was the deadline for transposing the EU Directive on whistleblower protection. Unfortunately, we did not get to see the final version of the Act. According to the Deputy Minister of Family and Social Policy, it should be ready no sooner than in the first quarter of 2022. However, now is a good time to start working on the whistleblower procedure. There are many issues that require careful deliberation and internal consultations within the company. It is better to start planning now than be caught unprepared by the sudden legislation changes.

#### **V. WORK-LIFE BALANCE DIRECTIVE**

Poland is bound to transpose the EU Work-life balance Directive until August 2022. The purpose of the Directive is to endorse the principle of gender equality in the labour market and to encourage more even distribution of parental duties. The proposed solutions include 5-day carers' leave and time off from work on grounds of force majeure.

#### **VI. SICK LEAVE FOR BURNOUT?**

A hot topic that has hit the headlines a few weeks ago is the long-awaited opportunity to take medically-certified sick leave for professional burnout as of 1 January. However, this information is not entirely true and may be misleading. The fact is that the latest revision of the International Classification of Diseases and Related Health Problems (ICD-11) came into effect at the beginning of the 2022. However, not yet in Poland. Even though burnout is, in fact, listed there, it is not registered as a new disease entity but as a syndrome that can affect employee health. This is a fundamental difference from the perspective of sick leave eligibility, which is based on diagnosing an employee with a disease that renders them temporarily unable to perform work. Presently, ICD-10 is applicable in Poland and a 5-year period has been provided for implementing the Eleventh Revision.

#### **VII. NEW OFFENCES IN THE LABOR CODE**

Other significant changes to employment law include amendments to the list of offences against employee rights introduced at the end of 2021. Employers have been included in the system for counteracting child support debtors. It means that employers may be subject to a fine between 1,500 zł and 45,000 zł if they fail to confirm in writing an employment agreement concluded with an employee who is:

- subject to child support debt collection proceedings; or
- in arrears with child support payments for more than 3 months.

The same will apply to persons who dishonestly pay salaries higher than indicated in the employment contract and do not make child support deductions for an employee listed in the National Debtors Register.

## VIII. IMMIGRATION

The new year brings also new developments in the employment of non-nationals in Poland. First of all, the existing procedures for issuing temporary residence and work permits and visas have been streamlined. The amendment to the Act on non-nationals and certain other acts, adopted by the Sejm in November and passed on to the Senate, extends the period when a non-national is allowed to work based on an employer's declaration of entrusting work to 24 months. The changes will cover citizens of six countries: Armenia, Belarus, Georgia, Moldova, Russia and Ukraine. The amendment also includes facilitation measures for granting work permits and temporary residence permits for non-nationals who take up employment in companies considered "strategic" for the Polish economy. Which companies are granted such a status is to be decided by the minister for the economy.

## IX. VERIFICATION OF COVID-19 TESTS

A new law is expected to be adopted at the beginning of the year to enable employers to request employees (and persons employed under civil law contracts) to provide information about a negative result of a COVID-19 test taken up to 48 hours before. Employees who provide a vaccination or recovery certificate will be exempt from this obligation. The draft also provides for measures available to employers in case an employee refuses to provide such information.

## X. PLANNED AMENDMENTS TO THE LABOUR CODE

At least two significant amendments to the Labour Code are planned for 2022. The long-awaited changes include remote working regulations and provisions enabling employers to carry out alcohol testing in the workplace. The regulations on remote working are to replace teleworking regulations. According to the draft, remote working will, in principle, be taken up voluntarily, based on the will of the employment relationship parties. Employers will be allowed to request employees to work remotely only in particular circumstances. Furthermore, employers will also be obliged to determine the rules for reimbursing employees working remotely for their job-related costs. It is not yet known when exactly and in what final form the new regulations will take effect.



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