



Dear Readers,

as usual, we come to you with a selection of the most interesting HR news and topical issues of the past week.

EMPLOYERS MUST RECALCULATE SOCIAL FUND CONTRIBUTION

As a result of the recent amendments in the legislation, there are new rules concerning the amount of company social fund contribution. From 1 July to 31 December 2023, the calculation basis is the average monthly salary in Poland in the second half of 2021. It means that this year's total contribution must be recalculated, even if the employer already paid 100% of the contribution at the beginning of the year. Any shortfall must be paid by the end of September.

EMPLOYERS WILL NOT GET BACK SOCIAL SECURITY CONTRIBUTIONS PAID FOR RECLASSIFIED EMPLOYEES

An employer cannot reclaim any social security contributions paid for an employee who carried out work under a civil contract concluded with the employer or another entity in the event the Social Insurance Institution (ZUS) found such a person to be an employee within the meaning of Article 8(2a) of the Social Security Act. The only exception is when an employee deliberately sought to conclude a civil contract to reduce the amount of due tax and social security contributions. But the burden of proof in this situation lies with the employer. The Supreme Court ruling of 19 May 2022 (III PSKP 70/21).

12% TAX RATE FOR PROGRAMMERS AFTER ALL

The Head of the National Tax and Customs Information Office (KIS) has changed his previous position and, in an interpretation dated 23 May 2023, stated that income earned from the provision of software-related services is subject to a 12% flat-tax rate on registered income, rather than the preferential rate of 8.5%, which resulted from his previous interpretations. Link to the interpretation: [here](#).

SUPREME COURT TO TACKLE MANAGEMENT BOARD LIABILITY FOR UNPAID CONTRIBUTIONS

The Supreme Court will soon address the issue of whether a company management board member is liable for debts to the Social Insurance Institution (ZUS) also when there are no reasons for declaring bankruptcy, i.e. when the company fails to pay contributions despite being solvent. In the considered case, the ZUS held a board member fully liable for unpaid contributions, while the court of first instance found the ZUS decision wrong. It is now up to the Supreme Court to resolve this legal issue brought up to the court of second instance. The body of judicial decisions in similar cases is divided. We will update you as soon as the Supreme Court decides over the case.

NEW RULES FOR EMPLOYEE PARTICIPATION IN CROSS-BORDER COMPANY TRANSFORMATION

This Friday, a new law governing the forms of employee participation in a company resulting from a cross-border transformation, merger or demerger comes into force. Among other things, employees will gain the right to recommend and elect members of the supervisory board or the board of directors and to object to the election of some candidates. The legislation transposes EU regulations into Polish law. Link to the Act: [here](#).

300 MILLION FROM ZUS FOR ACCIDENTS AT WORK IN 2022

Last year, ZUS paid out more than 40,000 one-off compensations for accidents at work. The total amount of compensation reached almost PLN 300 million.

Please do not hesitate to contact us: **Karolina Kanclerz**, attorney-at-law, partner, **Sławomir Paruch**, attorney-at-law, partner and **Oskar Kwiatkowski**, trainee attorney-at-law, lawyer.

UPCOMING EVENTS

- **10 rules for changing terms and conditions of employment** - 12 September 2023, 11:00-12:00, online. More: [here](#).
- **Webinar: Employment and B2B contracts on similar positions – a bomb that can be defused!** - 13 September 2023, 11:00-11:45, online. More: [here](#).
- **Springboard to ESG: ESG - a new challenge for almost all employers** - 18 September 2023, 11:00-11:45, online. More: [here](#).