

GOOD MORNING HR | 44/26

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

CJEU: TAX AUTHORITIES BEAR THE BURDEN OF PROOF REGARDING ABUSE IN DIVIDEND TAX EXEMPTIONS

The Court of Justice of the European Union (CJEU) confirmed in Case C-203/25 (NEO GROUP) that tax authorities may conduct broad examinations of holding structures and complete transaction chains involving dividend payments. However, the Court emphasized that a structure's complexity or matching financial flows do not automatically prove an abuse of law or disqualify a company from withholding tax exemptions. Tax authorities may analyze not only the direct recipient of the dividend but also prior and subsequent transactions, such as reorganizations, sales of shares, or loans. Nevertheless, the CJEU clearly stated that the burden of proving abuse rests with the tax authorities, not with taxpayers or tax remitters. To deny the right to exemption, the authority must demonstrate both an objective indication that the arrangement is artificial and a subjective intent to obtain a tax advantage contrary to the purpose of the directive. This ruling is of great significance for Polish companies utilizing the dividend exemption, as it strengthens their position in disputes with tax authorities and requires officials to fully substantiate all components of alleged abuse. CJEU Judgment of October 15 in Case C-203/25.

CHANGES IN WORK PERMIT EXEMPTIONS FOR FOREIGN RELIGIOUS WORKERS

The Ministry of Family, Labor, and Social Policy has submitted a draft regulation concerning the employment of foreign nationals by entities engaged in religious activities in Poland. The proposed changes aim to curb abuse of existing exemptions that allow foreign nationals to work without a permit when performing religious duties. Investigations revealed instances where individuals were formally hired under the guise of religious service but were actually assigned to other jobs that would require standard work permit. Link to the legislative process: Draft

PKD 2025 CLASSIFICATION STANDARD MANDATORY FOR ACCIDENT INSURANCE CONTRIBUTION CALCULATIONS

Starting January 1, 2027, the PKD 2025 classification will become the sole standard for determining activity groups used in calculating accident insurance contribution rates. This update marks the end of the transition period during which both the PKD 2007 and PKD 2025 frameworks operated concurrently. For most businesses, the new rules will not affect the contribution amount; however, higher rates will apply to certain entities engaged in motor vehicle sales. At the same time, contribution payers registered with ZUS before December 31, 2026, will remain under the current calculation rules until the end of the contribution year on March 31, 2027. The changes also require reporting the activity code in accordance with PKD 2025 on the ZUS IWA statement for 2026.

CHIEF LABOUR INSPECTOR RULES UNIVERSITY LECTURERS MUST BE HIRED AS STANDARD EMPLOYEES

In a recent binding interpretation, the Chief Labour Inspector (GIP) ruled that the provisions governing employment contracts must be applied to university lecturers. The case involved a university planning to hire external experts to conduct practical classes. The scope of the lecturers' duties was to be limited exclusively to conducting classes and evaluating students. However, the Inspector determined that teaching activities must take place within the framework of an employment relationship. According to GIP, factors such as organizational hierarchy, adherence to academic curricula, and compliance with institutional schedules served as decisive proof of an employment relationship. Arguments regarding flexible working hours, the option to provide services to third parties, or lecturers using their own equipment proved ineffective. GIP Interpretations: Interpretation No. 20 – National Labor Inspectorate – Gov.pl Portal, Interpretation No. 21 – National Labor Inspectorate – Gov.pl Portal.

CHANGES TO PIT AND CIT FOLLOWING SENATE AMENDMENTS

Work on the 2027 tax reform is still ongoing, and the Senate's latest decisions could significantly affect both employees and business owners. The bill proposes raising the first tax threshold from 120,000 PLN to 130,000 PLN and introducing a new 24-percent PIT rate for income between 130,000 PLN and 150,000 PLN per year. However, senators referred the bill back to committee, proposing amendments such as the annual indexation of tax thresholds along with other structural adjustments. The Senate also voted to revert to the government's proposal to raise the corporate income tax (CIT) rate to 22 percent for large entities with annual revenues exceeding 50 million euros. Additionally, the bill provides for an increase in the solidarity surcharge from 4 percent to 5 percent and a significant reduction in the revenue threshold for lump-sum taxation. While the final form of these changes is still pending, current legislative progress reflects an effort to balance tax relief for PIT taxpayers with additional budget revenues from CIT and other taxes. Link to the legislative process: Document No. 3147 – Sejm of the Republic of Poland.

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UPCOMING EVENTS

- **Workshop: Civil-law contracts in IT, services (including professional services), banking and finance sectors?** – November 3, 11:00 a.m. – 12:00 p.m., online. Registration: *here.*
- **Company Social Fund (ZFŚS) regulations – how to tailor the fund to employee needs?** – November 5, 11:00 a.m.–11:45 a.m., online. Registration: *here.*
- **Webinar: Anti-bullying law updates – separating fact from fiction** – November 16, 11:00 a.m.–11:45 a.m., online. Registration: *here.*
- **On unions with unions: Compliance in trade union relations** – November 17, 11:00 a.m.–11:45 a.m., online. Registration: *here.*
- **Collective redundancy step by step – Part II. How to carry out a compliant and efficient restructuring?** – November 20, 11:00 a.m. – 11:45 a.m., online. Registration: *here.*

Please note that the information given above is general and should not be treated as legal advice or as a basis for making business decisions. The firm accepts no liability whatsoever for using this information without prior consultation.