

Obligation of reporting of the contracts for specific work to the ZUS as of January 1, 2021

Please be informed that starting from the beginning of 2021 (as of January 1, 2021), the obligation to report contracts for performance of a specific work to the Social Insurance Institution (hereinafter referred to as "ZUS") will come into force. This obligation was introduced by the Act of 31 March 2020 amending the Act on special solutions related to preventing and combating COVID-19, other infectious diseases and crisis situations caused by them and other acts (Journal of Laws 2020, item 568), commonly known as the Anti-Crisis Shield.

Act of 13 October 1998 on the social security system, Article 36 section 17, provides for the following notification obligation:

"The contribution payer or a natural person commissioning the specific work shall inform the Institution (ZUS - editorial note) about the conclusion of each contract for specific work, if such a contract is concluded with a person with whom they do not have an employment relationship or if the person under such a contract does not work for the employer with whom they have an employment relationship, within 7 days from the date of concluding such a contract".

Who is responsible for the notification obligation

According to the provision presented above, the party ordering specific work will be subject to the obligation to report the concluded contract within 7 days from the date of conclusion, if the person was not previously involved in an employment relationship with the given person, or was involved, but on the basis of the contract the person did not perform work for the employer. Therefore, the notification obligation will not apply to contracts for specific work concluded with natural persons who have

concluded such contracts with an employer with whom they are simultaneously in an employment relationship.

ZUS has announced more frequent inspections

The notification obligation is connected with ZUS right to verify such contracts. Until now, ZUS has not had so broad competence to control every contract for specific work, so it has often been used in civil-law relations as a contract which at the same time is not the basis for the social insurance contributions. However, after the changes are introduced, the person commissioning the work may be obliged to pay contributions for the overdue period on the basis of ZUS's decision according to the general principles relating to erroneous marking of the basis for the contribution, which may turn out to be costly.

Costly consequences

Apart from the verification by ZUS, the newly introduced regulations also provide for the possibility of making the agreements in question available to the minister responsible for public finance and the bodies of the National Revenue Administration in order to better perform their tasks of enforcing tax obligations and for analytical or report studies. It should also be noted that it is

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possible to impose a fine of up to PLN 5000 on entities obliged to report data required by the Act, i.e. on payers of contributions or persons obliged to act on behalf of the payer in the event of a failure to meet the seven-day reporting deadline.

Dedicated RUD Form

Following the entry into force of the above changes, a new ZUS form - RUD Form - will be introduced. This form constitutes appendix no. 24 to the regulation of the Minister of Family and Social Policy on the definition of forms of applications to social security and health insurance, personalised monthly reports and personalised monthly adjustment reports, applications of the payer of contributions, accounting declarations and adjustment accounting declarations, applications for data on work in special conditions or of a special nature, information reports, declarations of intent to provide information reports, information on concluded contracts for work and other documents, which will replace the current regulation.

Keep this in mind

Bearing that in mind, it is recommended to remember about the above-mentioned obligations concerning obligatory notifications to ZUS within 7 days from the conclusion of contracts by use of the official RUD form, but also to carefully analyse in which situations company shall conclude such contracts for specific work.

Contracts of this type may be effectively concluded only when activities covered by contracts are of creative nature and result in creation of a specified work (although the result of such works can have material or immaterial form as well).

Therefore, it is particularly important to follow guidelines resulting from court judgements, including judgements of the Polish Supreme Court, which has numerous times expressed its interpretations on the possibility of effective conclusion of contracts for specific work in particular industries or even professions.

At present, the regulation is still in preparation. The proposed regulation can be found at this link to the website of the Government Legislation Centre (in Polish): <https://legislacja.rcl.gov.pl/projekt/12340507>

CONTACT

We encourage you to contact us in case of any doubts regarding correct classification of contract as a contract for a specific work.



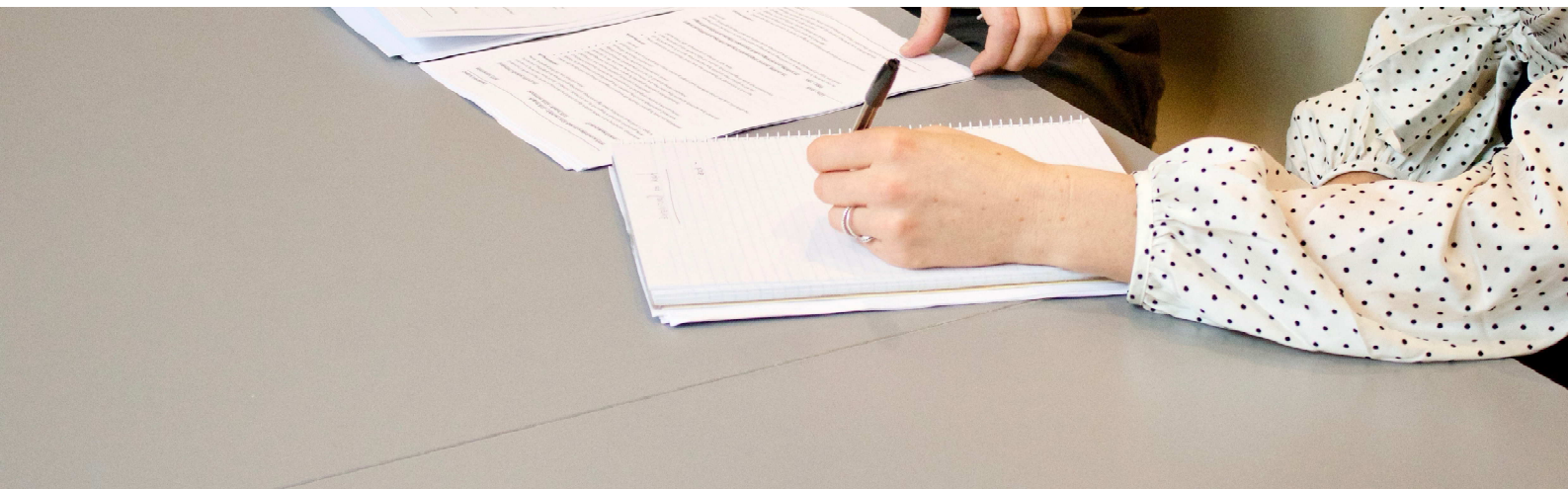
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