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Shield 6.0 published in the Journal of Laws

On 15 December 2020, the Act of 9 December 2020 amending the Act on Special Arrangements for the Prevention, Control and Management of COVID-19, Other Infectious Diseases and the Resulting Emergencies, and Certain Other Acts (commonly referred to as "Shield 6.0") was published in the Polish Journal of Laws.

Shield 6.0 provides for a raft of support instruments for industries particularly affected by the COVID-19-induced crisis, such as food services, culture and entertainment (stage events, museums, film and photography industry), sport industry (gyms, fitness clubs, swimming pools, aquaparks and health resorts), retail sales sector (clothing shops and retail sale on stalls and markets), tourist industry (hotels, travel agents, tour operators, and tour guides), transport industry (coach companies, taxi drivers), educational sector and catering activities.

The review of the key measures included therein can be found below.

Subsidization of salaries

Under Shield 6.0, an employer:

- who, as of 30 September 2020, conducted business activity;
- who conducts a prevailing activity under one of PKD (Polish Classification of Activity) codes set out in the Act;
- whose revenue, within the meaning of tax regulations, earned from the prevailing activity in one of the three

months preceding the month of submitting the application was lower, due to the COVID-19 pandemic, by at least 40 percent compared to the revenue earned in the previous month or in the corresponding month of the previous year;

- for whom there are no prerequisites to declare bankruptcy and who are not subject to bankruptcy or liquidation proceedings;
- who by the end of Q3 2019 were not in arrears with respect to public law liabilities;

may apply for workplace protection aid from the Guaranteed Employee Benefits Fund to subsidize employees' salaries.

In order to apply for the subsidy, the employer must conduct their prevailing business activity under one of 40 PKD codes provided for by the Act, including: retail sale of clothing in specialised stores, restaurants and other eating places, motion picture projection and production activities, motion picture, video and television programme production activities, learning of foreign languages, operation of sports and fitness facilities, or entertainment and recreation activities. Pursuant to the Act, assessment of whether the applicant meets the requirements in terms of the scope of business activity conducted takes place based on information available in REGON (Polish National Business Register) as at 30 September 2020.

The subsidy will amount to PLN 2k per one employee, taking into account the applicable working time,

and it will be provided under a contract on granting subsidy to protect workplaces, for a total period of 3 months falling from the date of submission of the application.

The subsidy will not apply to the employees whose remuneration in the month preceding the month, in which the application was submitted, was higher than 300 percent of the average monthly pay for the previous quarter and for those employed in the period less than 3 months before the date of submission of the application.

The employer will be obliged to settle the received subsidy and submit a set of documents confirming that the funds were used for the intended purpose, within a maximum of 30 days from the end of the subsidization period. If the granted amount is not fully used, it will have to be returned within 30 days from the end of the subsidization period.

Importantly, given the information available, the earlier use of employee remuneration subsidies from GEBF under the provisions of the existing Anti-Crisis Shields (Article 15g or Article 15gg) should not preclude the possibility of applying for the remuneration subsidy under Shield 6.0.

Application for the subsidy should be submitted electronically to the head of the regional labour office competent for the seat of the employer until 28 February 2021.

Exemption from ZUS contributions for November 2020

The Act also provides for exemptions from the obligation to pay contributions to social

security, health insurance, Labour Fund, Solidarity Fund, Guaranteed Employee Benefits Fund or Bridge Pension Fund, due for the period from 1 to 30 November 2020.

The exemption may be used by entrepreneurs who as at 30 September 2020 conducted their prevailing business activity under one of 40 PKD codes provided for by the Act, by 30 September 2020 were reported as contribution remitters and are able to demonstrate that their revenue earned in November 2020 was at least 40 percent lower than in November 2019.

In order to be covered with the exemption, entrepreneurs will be required to submit an appropriate application. If the contributions are paid before the positive consideration of their application, they will be refunded. In turn, in the absence of the application, they will be shifted to the next settlement period.

Extension of the exemption from ZUS contributions for July - September 2020

Furthermore, Shield 6.0 provides for extension of the group of industries eligible for the exemptions from contributions to social security, health insurance, Labour Fund, Solidarity Fund, Guaranteed Employee Benefits Fund or Bridge Pension Fund, due for the period from 1 July 2020 to 30 September 2020, provided that a drop in revenue by at least 75 percent compared to the corresponding month of the previous year is demonstrated.

Exemption from ZUS contributions on contracts of mandate

The Act is to cover contracts of mandate with the exemption from the obligation to collect and pay contributions to social security, health insurance, Labour Fund, Solidarity Fund and Guaranteed Employee Benefits Fund

by principals on contractors' income. The exemption may be applied for by contractors in relation to contributions due for the performance of the mandate contract for the period from 1 January 2021 to 30 April 2021.

Downtime benefit

Shield 6.0 also provides for extending the group of entities eligible for financial aid in form of an additional downtime benefit to persons conducting non-agricultural business activity under one of the PKD codes specified in the Act.

A one-off downtime benefit may be applied for, if the applicant's revenue on business activity earned in October or November 2020 dropped at least by 40 percent compared to October or November 2019.

Additional one-off downtime benefit

Shield 6.0 provides for extending the group of entities eligible for financial aid in form of an additional downtime benefit to individuals conducting non-agricultural business activity under the following PKD codes: 49.39.Z (transport), 55.10.Z (hotels and similar accommodation), 77.39.Z (rental and leasing of other machinery, equipment and tangible goods), 79.11.A (tour agents activities), 79.12.Z (tour operator activities), 90.01.Z and 90.02.Z (performing arts activities and support activities to performing arts), 93.11.Z (operation of sports facilities), 93.29.A (escape rooms, dancing facilities and other amusement and recreation activities), 93.29.B and 93.29.Z (amusement and recreation activities) who have already used the downtime benefit, a one-off additional benefit, provided that the revenue from such activities obtained in October or November 2020 was lower by at least 40 percent compared to October or November 2019, respectively.

A one-off downtime benefit may be also obtained by individuals performing work under a civil law contract, with no other title to social insurance, if their revenue from the civil law contract concluded until the effective date of the Act, obtained in the month preceding the month in which the application for the benefit was submitted, was not higher than 300 percent of the average monthly remuneration for the previous quarter.

Moreover, the Act grants the Polish Social Security Administration the power to conduct audits to verify the entity's eligibility for the granted downtime benefit.

Subsidies of up to PLN 5k for small businesses

Additionally, the Act provides for the possibility to apply for a non-returnable subsidy of up to PLN 5k to cover business running costs of micro- and small businesses which as at 30 September 2020 were conducted under PKD codes specified within the Act and with revenue earned in October or November 2020 lower by at least 40 percent compared to the revenue generated in October or November 2019, respectively.

The application for the subsidy should be submitted electronically to the competent district labour office by 31 September 2021.

Other changes

The Act also grants commune councils the right to introduce an exemption or extension of real estate tax payment deadlines for entities whose financial liquidity deteriorated following the negative economic consequences of the COVID-19 outbreak.

Moreover, the public administration bodies will be able to suspend procedural deadlines for a period not longer than 30 days, upon prior notification of the Parties.

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Additionally, the Act provides for suspension of marketplace fees in 2021.

Further developments

3 days after the announcement of the Act, entities will be able to apply for subsidies under GEBF

and 14 days after the announcement date they may apply for exemptions from ZUS contributions for November and the additional downtime benefit.

If you would like to learn more about the issues discussed, please do not hesitate to contact us at: mampanytanie@kpmg.pl

KPMG offices

Warsaw

ul. Inflancka 4a
00-189 Warsaw
Tel. : +48 22 528 11 00
Fax: +48 22 528 10 09
kpmg@kpmg.pl

Gdańsk

al. Zwycięstwa 13a
80-219 Gdańsk
Tel. : +48 58 772 95 00
Fax: +48 58 772 95 01
gdansk@kpmg.pl

Kraków

ul. Opolska 114
31-323 Kraków
Tel. : +48 12 424 94 00
Fax: +48 12 424 94 01
krakow@kpmg.pl

Katowice

ul. Francuska 36
40-028 Katowice
Tel. : +48 32 778 88 00
Fax: +48 32 778 88 10
katowice@kpmg.pl

Poznań

ul. Roosevelta 22
60-829 Poznań
Tel. : +48 61 845 46 00
Fax: +48 61 845 46 01
poznan@kpmg.pl

Łódź

ul. Składowa 35
90-127 Łódź
Tel. : +48 42 232 77 00
Fax: +48 42 232 77 01
lodz@kpmg.pl

Wrocław

ul. Szczytnicka 11
50-382 Wrocław
Tel. : +48 71 370 49 00
Fax: +48 71 370 49 01
wroclaw@kpmg.pl



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