

## CUSTOMER INFORMATION

# LEGAL INFORMATION

## regarding ANTI-CRISIS SHIELD

### 3.0.



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## **Introduction**

**Katowice, May 21<sup>st</sup>, 2020**

**Dear Sirs,**

We would like to inform that the Act on specific support instruments in relation to the spread of the SARS-COV-2 virus of May 14<sup>th</sup>, 2020 (Journal of Laws of 2020, item 875), the so-called Anti-Crisis Shield 3.0, has entered into force on May 16<sup>th</sup>, 2020.

Therefore, in this study we pay attention to the most important from the point of view of your business, changes of provisions.

We hope you find this information helpful. In case of any questions or doubts we remain at your disposal. We can also help you apply for all forms of support.

**Best regards**

**KBZ Team**

## **I. Labour law**

### **1. Increase of the deductible amount in the Labour Code**

**a) legal basis:**

article 52 of the Act of 14 May 2020 amending certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws 2020 item 875)

**b) summary:**

Shield 3.0 provides for an increase in the amount free of deductions resulting from Article 87<sup>1</sup>(1) of the Act of 26 June 1974. - Labour Code (Journal of Laws of 2019, item 1040, 1043 and 1495).

**c) the terms of use:**

If, due to actions taken on the territory of the Republic of Poland to prevent the SARS-CoV-2 virus infection, the employee's remuneration has been reduced or the employee's family member has lost the source of income, the amount free of deductions shall be increased by 25% for each unremunerated family member whom the employee has dependency. A family member is understood a spouse or common parent of a child and a child up to 25 years of age, as well as a child over 25 years of age with a disability certificate, if the child is entitled to a carer's benefit or special carer's allowance, or a guardian's allowance in connection with this disability. A child referred to in paragraph 2 shall mean the employee's own child, the child of the spouse, as well as the child of the parent of a shared child. Family members do not include a child under the care of a legal guardian, a married child, as well as an adult child with its own child.

### **2. Subsidies for employers who employ people with disabilities**

**a) legal basis:**

added Article 15 of the Act of 2 March 2020 on special solutions related to preventing, preventing and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws 2020 item 374,567,568 and 695)

**b) summary:**

Shield 3.0 provides for the possibility for the employer to benefit, in the event of a decrease in economic turnover following the occurrence of COVID-19, from the funding referred to in Article 15zzb or 15zze (on the basis of an agreement concluded with the district governor). The subsidy covers remuneration or social security contributions, the part of which cannot be subsidised on the basis of the provisions of the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons (Journal of Laws of 2020, items 426 and 568). The subsidy is granted on the basis of a starost's contract, which is concluded on the basis of an application submitted to the Poviats Labour Office.

According to Article 58 of the Shield 3.0, in cases concerning the above mentioned ways of support related to the maintenance of workplaces, the trusted signature and the personal signature are considered to be equivalent in terms of legal effects to the handwritten signature.

## II. Social insurance

### 1. exemption from social security contributions

#### a) legal basis:

article 46, point 41) of Act of 14 May 2020 amending certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Dz.U.2020 item 875)

#### b) summary:

On the basis of shield 3.0, certain payers have been granted the right to be exempted from paying the own health insurance contributions shown in the statement of account for April and May 2020, even if these contributions have been paid. The basis for reimbursement of the contributions paid is Article 24 of the Act of 13 October 1998 on the social security system.

In order to recover the contributions paid for April and May 2020, the payer may request a refund of the overpayment. Failure to submit a request will result in the body charging the overpayment against future contributions.

#### c) Who can use it?

The exemption applies:

- 1) a premium payer who is a non-agricultural person paying contributions exclusively for his own social security or health insurance if he was established before 1<sup>st</sup> April 2020 and:
  - a) income from this activity, within the meaning of the provisions on personal income tax, obtained in the first month for which the application for exemption from paying contributions is submitted, was higher than 300% of the forecasted average monthly gross remuneration in the national economy in 2020 and
  - b) income from this activity, within the meaning of the provisions on personal income tax, obtained in the first month for which an application for exemption from paying contributions is submitted, was not higher than PLN 7000;
- 2) a premium payer being an entrepreneur referred to in the Act on the Law of Entrepreneurs, who pays premiums exclusively for his own health insurance if he conducted business activity before 1 April 2020 and income from that activity within the meaning of the provisions on personal income tax obtained in the first month for which an application for exemption from the payment of premiums is submitted:
  - a) the income was not higher than 300% of the forecasted average gross monthly salary in the national economy in 2020 or;
  - b) was higher than 300% of the forecasted average gross monthly remuneration in the national economy in 2020 and the income from this activity within the meaning of the provisions on personal income tax obtained in the first month for which an application for exemption from paying contributions is submitted was not higher than PLN 7000.

### 2. Carer's allowance

#### a) legal basis:

article 46, point 1) - 2) and article 76 point 8) of the Act of 14 May 2020 amending certain acts in the field of screening activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws 2020, item 875).

**b) summary:**

The possibility of taking advantage of the additional care allowance for parents of children under 8 years of age has been waived.

An additional care allowance shall be granted to an insured person dismissed from work and to an officer of the Police, Border Guard, State Fire Service, Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, State Protection Service, The National Revenue Administration, the Marshal's Guard, dismissed from service because of the need to care for a child with a severe or moderate degree of disability up to the age of 18 or a child with a disability certificate or a special education certificate.

The new regulations concerning the additional care allowance come into force from 25 May 2020.

### **III. Foreigners' law**

#### **1. Validity of work permits for foreigners**

**a) legal basis:**

added Article 15z 5 of the Act of 2 March 2020 on special solutions related to the prevention, prevention and combating of COVID-19, other infectious diseases and crisis situations caused by them (Dz.U. 2020 item 374,567,568 and 695)

**b) summary:**

If as a result of entrusting a foreigner with remote work, reduced working time, changes in the system or work time schedule, the system of equivalent working time, the conditions for performing work by a foreigner specified in the Act on the conditions of employment of a foreigner have changed:

- temporary residence and work permit,
- a temporary residence permit for the purpose of highly qualified employment,
- a work permit,
- a seasonal work permit,
- statement on entrusting work to a foreigner

pursuant to the provisions of Shield 3.0, a foreigner may continue to work on the basis of previously obtained permits.

#### **2. The validity of foreigners' documents**

**a) legal basis:**

added article 15z 6 of the Act of 2 March 2020 on special solutions related to prevention, counteraction and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws 2020 item 374,567,568 and 695)

**b) summary:**

It shall be extended until the 30th day following the cancellation of an emergency or epidemic declared in relation to COVID-19:

- the period of validity of residence cards of a family member of an EU citizen, documents confirming the right of permanent residence and permanent residence cards of a family member of an EU citizen,
- the period of validity of Polish foreigner's identity documents is extended to the 30th day from the date of revoking the last state in force.
- the validity period of the "permit for tolerated stay" documents, that elapsed during an emergency or epidemic declared in connection with COVID-19.

## **IV. Tax law**

### **1. Changes in certificates of non-taxation**

**a) legal basis:**

article 46 point 14) of the Act of 14 May 2020 on the amendment of certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875).

**b) summary:**

In the case of issuing a certificate of no tax arrears or stating tax arrears, issued during the period covered by the omission to collect interest on tax arrears, tax arrears whose payment after the payment deadline is covered by this omission to collect interest are not taken into account. The provision shall also apply mutatis mutandis to determine the condition of non-existence of tax arrears in order to benefit from financial support under government programmes.

Furthermore, the Minister competent for public finance may, by way of an ordinance, waive, in whole or in part, the collection of interest for late payment on the solidarity levy not paid on time, referred to in the Personal Income Tax Act.

### **2. The late submission of a declaration of solidarity contribution as active regret**

**a) legal basis:**

article 46 point 19) of the Act of 14 May 2020 amending certain acts in the field of protective measures in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875).

**b) summary:**

Submission to the tax authority after the deadline, but no later than 1 June 2020 both:

- a statement of the amount of income earned (loss incurred) for 2019 and payment of due personal income tax, and
- the declaration and payment of the solidarity levy referred to in the Personal Income Tax Act, is equivalent to active regret. If the above mentioned documents are submitted after the deadline, the authority shall not initiate proceedings in the case of a fiscal offence, and the proceedings shall be discontinued.

As a rule, the declaration of the solidarity contribution must be submitted to the tax office by 30 April of the calendar year concerned. Shield 3.0 postpones this deadline until 1 June 2020.

**c) an advantage for the entrepreneur:**

The submission of a statement of income (loss) for 2019 or a declaration of solidarity contribution after 30 April 2020 will not result in negative consequences for the entrepreneur. Submitting the above-mentioned documents after 30 April 2020 but before 1 June 2020 will automatically be treated as fulfilling the reporting obligation in the mode of active regret (without the need to submit additional letters).

## **V. Contract law**

### **1. Invalidity of transfer of ownership to secure residential property used by the consumer**

**a) legal basis:**

article 1 of the Shield 3.0 Act, which added Article 387<sup>1</sup> to the Civil Code.

**b) summary:**

According to the added Article 387<sup>1</sup> of the Civil Code, an agreement in which a natural person undertakes to transfer the ownership of real estate to satisfy his or her housing needs in order to secure claims arising from this or any other agreement not directly related to his or her business or professional activity is void:

- 1) the value of the real estate is higher than the value of the monetary claims secured with the real estate plus the maximum interest for the delay from this value for a period of 24 months or;
- 2) the value of monetary claims secured with this real estate is not marked, or;
- 3) conclusion of this agreement was not preceded by an expert appraisal of the market value of the property.

This provision shall enter into force on 30 May 2020.

## **VI. Company law**

### **1. Prolongation of deadlines related to share dematerialisation**

**a) legal basis:**

art. 43 of the Act on Anti-Crisis Shield 3.0 amending art. 15 section 1 and art. 16 section 2 of the Act of 30 August 2019 amending the Act - Commercial Companies Code and certain other acts

**b) summary:**

The share documents issued by the company shall expire by force of law on 1 March 2021. - and not as previously agreed on 1 January 2021.

As of 1 March 2021, entries in the register of shareholders become legally binding, and in the case of a company that is not a public company, whose general meeting adopted a resolution to register its shares in the depository of securities - entries of shares in securities accounts.

The date of the first call for shareholders to submit share documents in the company was set at 30 September 2020.



## VII. Judicial procedures

### 1. Remote hearings

#### a) **legal basis:**

article 46, point. 21 of the Act of 14 May 2020 on the amendment of certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875).

#### b) **summary:**

In accordance with the provisions of the Act, a hearing or an open hearing shall be conducted using technical devices enabling them to be conducted at a distance with simultaneous direct transmission of video and sound. Therefore, the participants do not have to be in the court building. The Act provides for the possibility to conduct a hearing also in the traditional manner, provided that the conduct of the hearing does not cause an excessive health risk to the persons participating in it.

Remote hearing is possible during the period of an epidemic emergency or a state of epidemic announced due to COVID-19 and within one year from the appeal of the last one, in cases recognized under the provisions of the Code of Civil Procedure.

Hearings may also be held remotely before provincial administrative courts and the Supreme Administrative Court.

The provisions of the Act concerning the conduct of remote hearings entered into force on 16 May 2020. The Minister of Justice, on the other hand, shall determine, by way of an ordinance, the manner of designing, implementing and developing an ICT system covering court proceedings.

### 2. Closed sessions when a open hearing cannot be held

#### a) **legal basis:**

article 46, point. 21 of the Act of 14 May 2020 on the amendment of certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875).

#### b) **summary:**

The Judge-Chairman may order a non-public session if an open session could cause an undue health risk to the participants and cannot be held remotely, provided that no party has objected to the holding of a non-public session within 7 days of being served notice of referral to a non-public meeting.

Furthermore, if the taking of evidence in the case has been carried out in its entirety, the court may close the hearing and issue a decision in closed session after the parties or participants to the proceedings have had their statements made in writing.

In a case where an appeal has been lodged before 7 November 2019, the court of second instance may refer the case to a closed hearing if it considers that a hearing is not necessary. The court shall hear the case in public if a party applies for a hearing or has requested that evidence from witnesses'

testimony or the hearing of the parties not to be disregarded. However, the court shall consider the case in closed session if the statement of claim is withdrawn, the appeal is withdrawn or the proceedings are null and void. The request to hold an open hearing shall be submitted within 7 days from the date of service of the notice of referral to a closed hearing. However, the Court shall consider the case at a closed hearing if the statement of claim is withdrawn, the appeal is withdrawn or if the proceedings are invalid.

The Supreme Administrative Court may consider an appeal in cassation at a closed meeting if all parties agree to it within 14 days from the date of service of the notice of the intention to refer the case to a closed meeting. In a closed session, the Supreme Administrative Court shall adjudicate on these cases in a panel of three judges.

### **3. The abolition of suspended judicial and procedural deadlines from 23 May 2020.**

#### **a) legal basis:**

article 68 paragraphs 6-7 of the Act of 14 May 2020 on the amendment of certain acts in the field of protective measures in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875).

#### **b) summary:**

The procedural and judicial deadlines that have been suspended due to the ongoing state of the epidemic will start or resume. The trial and court periods shall start seven days after the entry into force of the Act, i.e. this Saturday, 23 May 2020.

### **4. Change of the Urgent Case Catalogue**

#### **a) legal basis:**

amended by Article 14a of the Act of 2 March 2020 on special solutions related to preventing, preventing and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws 2020 item 374,567,568 and 695)

#### **b) summary:**

Shield 3.0 expands the catalogue of urgent cases, which now also includes:

- cases where detention is a preventive measure in the form of provisional detention,
- examination of a witness in preparatory proceedings by the court pursuant to Article 185a-185c or Article 316(3) of the Act on the Code of Criminal Procedure, if the examination in accordance with the procedure provided for examination of urgent cases was requested by the prosecutor,
- cases concerning conditional discontinuance of proceedings, ordering execution of a conditionally suspended sentence and revoking conditional release,
- cases for consideration of the restructuring application and conducted after the opening of the restructuring procedure, ,
- bankruptcy and post- bankruptcy cases
- cases for consent to perform medical activities referred to in the Act on the Professions of Physician and Dentist,
- cases for determining the disability or the degree of disability.

## VIII. Administrative procedure

### 1. Start of deadlines

#### a) legal basis:

article 68(1) and (2) of the Act of 14 May 2020 amending certain acts in the field of protective measures in relation to the spread of SARS-CoV-2 virus

#### b) summary:

Deadlines provided for by administrative law:

1. deadlines which are required to grant legal protection by the court or authority;
2. deadlines for the party to perform activities shaping its rights and obligations;
3. limitation period;
4. deadlines whose failure to comply with this rule results in the expiration or modification of rights in rem and claims and claims, as well as in the occurrence of delays;
5. deadlines, with failure to comply, which are set to have a negative effect on the parties;
6. to carry out by the entities or organizational units subject to registration in the relevant register the activities which give rise to the obligation to report to that register, as well as time limits for the performance by those entities of their obligations arising from the regulations on their system,

which have not started or which have been suspended pursuant to art. 15zzr section 1 of the Act of 2 March 2020 on special solutions related to the prevention, prevention and combating of COVID-19, other infectious diseases and crisis situations caused by them (Dz.U.2019.374 as amended), shall start or continue to run after 7 days from the date of entry into force of the shield 3.0 Act.

## IX. Criminal law

### 1. Criminal liability for exploitation

#### a) legal basis:

added Article 304 § 2 and 3 of the Criminal Code

#### b) summary:

Shield 3.0 introduces a penalty for two acts that fall within the category of exploitation.

It is penalised to demand from an individual to pay costs other than interest in an amount at least twice as high as the maximum amount of such costs specified in the Act, in exchange for a monetary benefit granted to an individual under a loan, credit or other agreement to provide such benefit with an obligation to return it, not directly related to that individual's business or professional activity. This activity is punishable by imprisonment from 3 months to 5 years.

The same penalty shall be imposed on anyone who, in connection with the granting of a financial benefit to an individual resulting from a loan, credit or any other agreement the subject of which is the granting of a financial benefit with an obligation to return it, not directly related to that individual's business or professional activity, demands from him/her the payment of interest in an

amount at least twice as high as the maximum interest rate or the maximum interest rate for delay specified in the Act.

## **X. Waste law**

### **1. Paper-based waste records**

#### **a) legal basis:**

article 26, point 2. 1) Act of 14 May 2020 on the amendment of certain acts in the field of protective measures in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875)

#### **b) summary:**

The obligation of entities keeping paper records of waste to enter information contained in these records into the Waste Database has been repealed.

#### **c) benefit to the entrepreneur:**

Entrepreneurs keeping paper-based waste records will not need to complete these data in BDO.

### **2. Keeping records of waste before obtaining entry in the register**

#### **a) legal basis:**

article 26, point 2. 2) The Act of 14 May 2020 on the amendment of certain acts in the field of protection activities in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875)

#### **b) summary:**

Waste operators will be able to keep a paper record of waste before obtaining entry in the register. In this respect, they will not use the registration number on documents..

### **3. Prolongation of deadlines for report concerning waste**

#### **a) legal basis:**

article 26, point 2. 3) Act of 14 May 2020 on the amendment of certain acts in the field of protective measures in connection with the spread of SARS-CoV-2 virus (Journal of Laws, item 875)

#### **b) summary:**

The following reporting deadlines have been extended:

1. the deadline for submission of reports on collected municipal waste, reports of PSZOK-i and reports on collected municipal waste for 2019 – postponed until 31 August 2020;
2. the deadline for submitting the annual report on products, packaging and waste management (including the marketing of packaged products and electrical and electronic equipment) for 2019 – postponed to 11 September 2020;
3. the deadline for submission of the annual report on waste generation and waste management - as regards waste generated, collected and treated, for 2019 – postponed to 31 October 2020.

**We remain with all due respect,**

**KBZ Żuradzka & Partners Lawyers and Attorneys-at-law**

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