

ACC Alert

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NEW "ENTREPRENEURS LAW"

On 30 April 2018, the Act "Entrepreneurs Law" will enter into force, being the main element of the so-called Constitution of Business, a package of changes proposed by the Polish Government to facilitate the conduct of business in Poland. The main changes introduced by the "Entrepreneurs Law" act are the introduction of the "Unregistered business activity" and "relief to start" into the Polish legal system.

The "Entrepreneurs Law" Act replaces the currently binding Act of 02.07.2004 on the freedom of economic activity.

UNREGISTERED BUSINESS ACTIVITY

A new element introduced by the "Entrepreneurs Law" act is an activity called "Unregistered business activity". Pursuant to the provisions of the new act, will not constitute business activity carried out by a natural person whose income due to this activity does not exceed 50% of the minimum wage amount in any month (from 1 January 2018 this salary is PLN 2,100) and which in the period the last 60 months did not perform business.

It follows from the above that Unregistered business activity may be performed only by a natural person, and the income that it will be able to obtain in this respect in 2018 will not exceed PLN 1050 a month.

In accordance with the provisions of the "Entrepreneurs Law" act, income due is understood to include amounts due, even if they have not actually been received, excluding the value of returned goods, discounts and discounts.

A business that is not registered will not be an economic activity, so a natural person conducting such activity will not be required to register to social security and health insurance.

UNREGISTERED BUSINESS ACTIVITY AND VAT

The "Entrepreneurs Law" does not introduce changes to the VAT Act. Persons conducting Unregistered business activity will be covered by generally applicable VAT regulations.

The Act on VAT provides for a subjective exemption for people not exceeding the limit of revenues, which in principle amounts to PLN 200,000, so none of the persons who run Unregistered business activity will exceed this limit, resulting in the obligation to register and settle VAT.

However, in accordance with VAT regulations, persons conducting Unregistered business activity will be obliged to keep daily, simplified sales records.

UNREGISTERED BUSINESS ACTIVITY AND INCOME TAX

The "Entrepreneurs Law" introduces into the Act on Personal Income Tax the principle according to which the income from Unregistered business activity is counted as revenue "from other sources". Thus, the income from Unregistered business activity will be determined on the general rules provided for revenues from other sources, which means that the natural person will be required to calculate and pay the tax and its settlement in the annual tax return.

Exceeding the limit of revenues (PLN 1,050 per month in 2018) will result in recognition of the activity as an economic activity. In this situation, the natural person will have 7 days to submit an application for entry into CEIDG (Central Registration and Information on Business).

After exceeding this date, all revenues of a natural person will be considered as revenues from business operations with all consequences in the scope of tax settlements and accounting records used.

UNREGISTERED BUSINESS ACTIVITY AND ZUS (SOCIAL SECURITY INSTITUTION)

- Natural persons conducting Unregistered business activity are not subject to social insurance. The period of conducting such activity is not included in the seniority included in the calculation of pension benefits. Such persons, if they do not reach the minimum seniority, may in the future, after reaching the retirement age, obtain a pension lower than the minimum pension.
- On the other hand, for people who already have a minimum seniority, the benefit of Unregistered business activity or a 6-month discount in payment of contributions will not significantly affect the amount of future retirement benefits.

It should also be stressed that a person who runs Unregistered business activity is not covered by health insurance. It is deprived of the right to health services financed from public funds. A natural person running Unregistered business activity, which has no other title to insurance, may volunteer for health insurance. Alternatively, such a person may be registered to health insurance by a family member subject to that insurance.

RELIEF TO START (SOCIAL SECURITY INSTITUTION)

In accordance with the current regulations, persons conducting business activities, if they do not have other titles to insurance, are subject to compulsory social insurance and health insurance from the date of commencement of activity until the cessation of this activity.

The "Entrepreneurs Law" Act introduces the principle that a novice (new starter) entrepreneur who starts running a business activity will be exempted from the obligation to pay social security contributions for the first 6 months of operation.

Individuals who will be able to use the exemption are the ones who:

- start a business for the first time, or
- they start operating again after at least 60 months from the date of its last suspension or termination,
- they do not perform activities for a former employer for whom they worked in the current or previous calendar year.

The relief applies to social security contributions, so a novice (new starter) entrepreneur will still be obliged to pay health insurance premiums.

After the six-month preference period, the entrepreneur will be able to take advantage of the preferential rules for paying social security contributions for the next 24 months (reduced base of contributions).

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