



PPK in practice

Foreigners



PFR Portal PPK

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Publishing house
PFR Portal PPK sp. z o.o.
Warsaw 2022 • II edition

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Introduction

We would like to present you with a guide which aims to explain the rules of foreigners' participation in the Employee Capital Plans (PPK). It contains the most important information about the conditions of accumulating savings in PPK and using them.

It will answer questions such as:

- ✿ Can every foreigner employed in Poland save in PPK?
- ✿ When should a foreigner be enrolled in PPK?
- ✿ Where will a foreigner pay the tax related to PPK?
- ✿ What will happen to the savings in PPK of a foreigner if he/she leaves Poland?
- ✿ How can a foreigner benefit from the savings in PPK?
- ✿ On what terms can a foreigner employed in a foreign company save in PPK?

Our guide is mainly aimed at employed foreigners who are saving or will be saving in PPK and their relatives, but not only. Employers who employ foreigners and maintain PPK or plan to create it will also find useful information here.

The basic legal act regulating the PPK is the Act of 4 October 2018 on Employee Capital Plans (i.e., Journal of Laws of 2020, item 1342). The wording of the Act, as well as other information on PPK, can be found on the PPK Portal website at: www.mojeppk.pl.

To make reading easier, we use certain general terms in the publication, some of them using interchangeably (this is the case, for example, with the terms worker and employee, or entity employing and employer and company).

Please see the Glossary for statutory definitions of these terms.

The brochure “PPK in Practice: Foreigners” is the fifth in a series of brochures that will explain in more detail certain issues related to the functioning of Employee Capital Plans. We encourage you to follow our publications. More brochures to come soon.

Four titles have been published so far in the "PPK in practice" series - "[Taxes](#)", "[PPK Guide for HR and Payroll](#)", "[Agreement on Running and Managing the PPK](#)" and "[PPK in the Public Sector](#)". All of these publications are available online, including Google Play and MojePPK.pl.

Glossary

Terms and abbreviations used in this guide refer to:

PPK – employee capital plans within the meaning of the Act on Employee Capital Plans.

Financial institution - an investment fund managed by an investment fund company (TFI) that has been placed in the PPK record, a pension fund managed by a universal pension company (PTE) or an employee pension company (PrTE) that has been placed in the PPK record, or an insurance company that has been placed in the PPK record.

Employed persons:

- employees employed under a contract of employment, appointment, election, nomination or cooperative employment contract (except for employees on mining leave and leave for employees of a coal preparation plant and juveniles),
- natural persons performing outwork who are at least 18 years old,
- members of agricultural production cooperatives or farmers' association cooperatives,
- natural persons over 18 years of age who perform work on the basis of an agency contract or a contract of mandate or another contract for the provision of services,
- members of supervisory boards remunerated for performing such functions, and
- the persons indicated above (except for members of supervisory boards) who are on child care leaves or receiving maternity benefit or benefit in the amount of maternity benefit

obligatorily subject to pension and disability pension insurance from these titles in the Republic of Poland, within the meaning of the Act on Social Insurance System.

Employing Entity:

- employer, as referred to in Article 3 of the Labour Code,
- outwork employer,
- agricultural production cooperatives or farmers' association cooperatives,
- mandator,
- the entity in which the supervisory board operates.

PPE- an employee pension plan within the meaning of the Act on Employee Pension Plans.

PPK account - a PPK participant's private account where his/her savings are accumulated. Formally, it is an entry in the register of participants of an investment fund or in the sub-register of participants of a sub-fund of an investment fund with separated sub-funds, in the register of members of a pension fund or a separate account in an insurance capital fund, kept pursuant to the rules set forth in the Act on PPK, and within the scope not regulated therein - pursuant to the rules set forth in the Act on Investment Funds, in the Act on Organization and Operation of Pension Funds and in the Act on Insurance and Reinsurance Activity; there is a maximum limit of payments and additional payments to all accounts of a PPK participant in a calendar year in the amount of the PLN equivalent of USD 50,000.

Agreement on Running the PPK - an agreement concluded by the employing entity - in the name and on behalf of the employees - with a financial institution with which the entity previously concluded an agreement on managing the PPK. Once an agreement on running the PPK is concluded on their behalf, employees become participants in the PPK. The running agreement sets forth, among other things, the detailed terms and conditions for collecting and managing funds, declaring additional contributions, and submitting instructions regarding the funds collected.

Agreement on Managing the PPK - An agreement that the employing entity enters into with a selected financial institution. The selection of the institution with which the contract will be concluded should be made in agreement with the representation of the employees (company trade unions or, if there is no such organization in the employing entity, with the representation of the employees selected in accordance with the procedure adopted in the entity). The agreement on the managing the PPK sets out the most important rules for collecting and managing funds in PPK accounts.

Contributions to PPK - basic and additional payments, made to the account of a PPK participant, financed by the employee and the employing entity; payments to PPK are calculated as a percentage of the PPK participant's remuneration.

Selected Financial Institution - a financial institution with which - in the name and on behalf of a PPK participant - the employing entity has concluded an agreement on running the PPK, or a financial institution which - in accordance with the Act on PPK, the Act on Investment Funds or the Act on Organization and Operation of Pension Funds - has assumed the rights and obligations arising from that agreement.

Remuneration - the basis for the calculation of pension and disability insurance contributions of a PPK participant, referred to in the Act on Social Insurance System, without applying the limitation referred to in Art. 19(1) of the Act (the so-called 30-fold), and excluding the basis for the calculation of pension and disability insurance contributions of individuals on child care leave and receiving maternity benefit or benefit in the amount of maternity benefit.

ZUS - Social Insurance Institution

Legal acts

Civil Code - the Act of 23 April 1964. - Civil Code (i.e. Journal of Laws of 2020, item 1740, as amended).

Labour Code - the Act of 26 June 1974. - Labour Code (i.e. Journal of Laws of 2020, item 1320 as amended).

Act on Insurance and Reinsurance Business - Act of 11 September 2015 on the Insurance and Reinsurance Business (i.e., Journal of Laws of 2020, item 895, as amended).

Investment Funds Act - the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds (Journal of Laws of 2020, item 95, as amended).

Act on the Protection of Employees' Claims in the Event of an Employer's Insolvency - Act of 13 July 2006 on the Protection of Employees' Claims in the Event of an Employer's Insolvency (Journal of Laws of 2020, item 7).

Act on the Organization and Operation of Pension Funds - Act of 28 August 1997 on the Organization and Operation of Pension Funds (Journal of Laws of 2020, item 105, as amended).

Personal Income Tax Act - the Act of 26 July 1991 on Personal Income Tax (i.e., Journal of Laws of 2020, item 1426, as amended).

Act on PPE - Act of 20 April 2004 on Employee Pension Plans (uniform text, Journal of Laws of 2020, item 686).

Act on PPK - the Act of 4 October 2018 on Employee Capital Plans (i.e., Journal of Laws 2020, item 1342).

Act on Social Security System - Act of 13 October 1998 on Social Security System (i.e., Journal of Laws of 2020, item 266, as amended).

I. PPK – General Information

Employee Capital Plans (PPK) is a universal savings system for employees implemented from the beginning of 2019 (the Act on PPK came into force on 1 January 2019) in cooperation with employers and the state. This is a new solution to increase the financial security of employees when they are no longer working.

The program is based on the experience of many countries with similar employee programs, including the United Kingdom. It is being implemented in phases, starting from 1 July 2019 - depending on the size of the company employing the employee. So far, PPK has been implemented by the so-called 250+, 50+ and 20+ employers. In 2021, the programme will cover other employers, as well as public finance sector entities (regardless of how many individuals they employ). Ultimately, therefore, PPK will be offered by all employers in the country.

The programme is addressed to economically active individuals who are subject to mandatory pension and disability insurance in Poland. This means that it applies to both those who are employed and those who work under a contract of mandate, for example.

Regulations with regard to PPK respect the principle of equal treatment of employees regardless of nationality or citizenship. Every foreigner who meets the prerequisites for participation in PPK is entitled to saving in the programme.

Participation in PPK is voluntary for employees. This means that an employee can both resign from saving in PPK and return to it at any time. Moreover, the accumulated savings are available to each participant at any time. The participant decides when and how to use them. If the participant waits with their payment until retirement, they can be a significant supplement (especially with long-term saving) to the benefit received from e.g. the Social Insurance Institution (ZUS).

The main objective of PPK is to provide the participant with additional money, which can be used after the age of 60, and in exceptional situations earlier. Funds accumulated in a PPK participant's account are private and inheritable. They can also be withdrawn at any time.

Participating in PPK is simple and does not require the employee to take any complicated actions. It is the responsibility of the employer to form the PPK within the company. Contributions to the PPK account come from three sources: the employer, the employee and the state. It means that - unlike in other forms of long-term savings - in PPK the private savings of the participants consist of as many as three entities: the PPK participant him/herself, his/her employer and the state. These savings are invested in defined date funds that vary the level of risk taking into account the age of the PPK participant. The Financial Supervision Authority (Komisja Nadzoru Finansowego) exercises control over employee capital plans with respect to the activities of institutions that operate the programme.

Before enrolling in the PPK, an employer should ensure that a foreigner has the opportunity to familiarize him/herself with information about the conditions of participation in the PPK and the obligations and rights of the employing entity and the employee related to participation in the PPK. This information should be made available to the foreigner together with its translation into a language understood by him/her.

Information materials in Polish, English, Ukrainian and Belarusian are available on MojePPK.pl - we encourage both employers employing foreigners and the foreigners themselves to get acquainted with it. This includes employee information brochures, as well as flyers, a presentation, and a poster.

In addition to information materials, the MojePPK portal also includes templates of declarations submitted by employees within the PPK:

- ✿ a declaration on the concluded agreement on running the PPK,
- ✿ a declaration concerning additional contributions to PPK,
- ✿ an application for the conclusion of an agreement on running the PP,
- ✿ a declaration concerning basic contributions to PPK,
- ✿ a declaration concerning basic contributions to PPK,
- ✿ a declaration of withdrawal from making contributions to PPK.

Documents in Polish, English, Ukrainian, and Belarusian are available in the "For the Employee" and "For the Employer" tabs of the "Downloads" section. Language versions are marked with flags, in this case - a miniature of the Polish, British, Ukrainian and Belarusian flag.

II. Conditions for starting savings in PPK by a foreigner

1. Running PPK by a company employing a foreigner

The basic condition for a foreigner to start saving in PPK is that the company employing the foreigner runs the programme. Below in the table we present maximum deadlines in which particular groups of employers are obliged to establish PPK, i.e. to conclude with a selected financial institution agreements on managing of the PPK and then agreements on running PPK. The latter in the name and on behalf of employees who do not withdraw from participation in the PPK.

Employing Entities	Deadline for concluding the agreement on managing PPK	Deadline for the conclusion of a agreements on running the PPK
At least 250 persons employed as of 31 December 2018.	no later than 25.10.2019	no later than 12.11.2019
At least 50 persons employed as of 30 June 2019.	no later than 27.10.2020	no later than 10.11.2020
At least 20 persons employed as of 31 December 2019.	no later than 27.10.2020	no later than 10.11.2020
other employing entities	no later than 23.04.2021	no later than 10.05.2021
belonging to the public finance sector	no later than 26.03.2021	no later than 10.04.2021

If the company employing a foreigner runs PPK, and the foreigner meets the conditions for participation in PPK - the company's obligation is to enroll the foreigner in PPK, unless the foreigner previously withdraws from saving in PPK.

Example:

A company runs PPK. On 15 May 2020, it employed 20 Ukrainian nationals under an employment contract. This means that employees - citizens of Ukraine employed in this company, as soon as they meet the conditions for participation in PPK, will be enrolled in PPK and will start saving in PPK.

PPK at a foreign employer

An employing entity, which does not have its seat or residence in the territory of Poland, but employs in Poland persons entitled to participate in PPK - is obliged to provide them with an opportunity to save in PPK. For this purpose, it should establish and run PPK for the employees working for it (see the definition of an employee in the Glossary).

Such a foreign employer may also agree with the employee to take over the employee's obligations under the Act on PPK. This person will perform these duties on behalf of the employer during the period of his or her employment with that employing entity. This means that, if so agreed between the foreign employer and its employee - the employee will enter into an agreement on managing the PPK, enter into an agreement on running the PPK, and make payments into his/her PPK account.

It should be remembered that an agreement between a foreign employer and its employee indicating that the employee will take over PPK duties, as well as specifying the scope of those duties, should be concluded in writing under pain of nullity (Article 5 of the PPK Act).

Example

A foreign company with headquarters in France has transferred its French employee to work in Poland. The employee is reported to the Social Insurance Institution (ZUS) for compulsory pension and disability insurance. In this situation, the foreign company should allow its employee to save in PPK. For this purpose, it should either enter into an agreement on managing the PPK and enroll the employee in PPK or agree with the employee to enroll him/herself in PPK.

2. Foreigner's employment status

The participation in the PPK is conditional on the foreigner having the status of an employed person. Who should be included in this category is based on the definition of an employed person in the Act on PPK in Article 2(1)(18) (see [Glossary](#)). According to this definition, employed persons should be understood as persons who are obligatorily subject to pension and disability insurance from the following titles in Poland within the meaning of the Act on Social Insurance System (see [Glossary](#)), i.e:

- a. employees within the meaning of the Labour Code - the exception being employees on mining leave and leave for employees of a coal preparation plant and juveniles,
- b. natural persons performing outwork who are at least 18 years old,
- c. members of agricultural production cooperatives or farmers' association cooperatives,
- d. natural persons who are at least 18 years of age, performing work on the basis of an agency contract or a mandate contract or any other contract for the provision of services, to which, in accordance with Article 750 of the Civil Code (CC), the provisions concerning the mandate apply,
- e. members of supervisory boards remunerated for performing such functions, and
- f. the persons indicated above (except for members of supervisory boards) who are on child care leaves or receiving maternity benefit or benefit in the amount of maternity benefit.

Only these individuals should be enrolled in the PPK, i.e., the employer should enter into an agreement on running the PPK on their behalf and for their benefit. This means that not every employed person, in the ordinary sense of the word, will therefore be able to become a PPK participant.

Example

A foreigner moves to Poland permanently and starts working for a Polish company that runs PPK. Will provide employment under a contract of employment. Due to the fact that by virtue of an employment contract the foreigner is obligatorily subject to pension and disability insurance in Poland - he meets the definition of an employed person within the meaning of the Act on PPK and will be able to become a PPK participant.

Example

A foreigner is permanently employed in a Polish company on the basis of a contract of mandate and is subject to mandatory pension and disability insurance in Poland on that account. Thus, he/she is an employed person within the meaning of the Act on PPK and may be a PPK participant. If the foreigner was voluntarily subject to the aforementioned insurance by virtue of this agreement - the foreigner would not fulfill the definition of an employed person within the meaning of the Act on PPK and could not become a PPK participant.

3. Enrolment of a foreigner in PPK

In order to enroll an employed person - a foreigner into the PPK, the employer does not need to obtain the consent of the foreigner. This is because the programme involves what is known as automatic enrolment. Therefore, it is assumed that if an employed person does not submit a declaration of withdrawal from making payments to PPK - that person should be enrolled in the programme automatically.

However, keep in mind that the so-called automatic enrolment only applies to individuals between 18 and 55 years of age. These individuals do not need to take any action in order to become PPK participants and start saving.

Employees who are at least 55 years of age but under 70 years of age should apply to their employer to enter into a PPK agreement on their behalf and for their benefit in order to join the PPK. The employer is obligated to inform employees of the opportunity to make such a request, and the employee may make the request in any manner.

A specimen of this application is available in three languages at www.mojepk.pl in the "Downloads" tab. It just needs to be printed, filled out, signed and submitted to the employer.

In order to enroll a foreigner in the PPK, the employer should enter into an agreement on running the PPK on behalf and for the benefit of the foreigner. An agreement on running PPK should specify, in particular:

- ✱ parties to the agreement, including an employee as one of the parties and a selected financial institution as the other party that will manage the PPK,
- ✱ the manner of declaring additional contribution financed by the PPK participant and the manner of changing the amount of such contribution,
- ✱ defined date fund names,
- ✱ the terms and conditions for the collection and management of funds by each defined date fund,
- ✱ the manner of making declarations regarding the division of contributions made to PPK between individual defined date funds,
- ✱ the manner in which the defined date fund is changed,
- ✱ the conditions, dates and manner of making a withdrawal, transfer payment or refund,
- ✱ the manner in which instructions are given,

- ✿ scope, frequency and form of informing the PPK participant about funds accumulated on his/her PPK account,
- ✿ the maximum amount of the remuneration for the management of the defined date fund, the costs charged to that fund and the fees charged to the PPK participant and the conditions, if any, under which they may be reduced without requiring an amendment to the agreement.

In case of concluding an agreement on running PPK with an insurance company, the insurance capital fund investment regulations and general insurance conditions shall be attached to this agreement. An agreement on running PPK with an insurance company also specifies:

- ✿ amount of the sum insured,
- ✿ amount of the protective contribution, subject to Article 49(2) of the Act on PPK,
- ✿ no possibility of deducting insurance protection costs from the defined date fund, which is an insurance capital fund, in case of failure to make payments or suspension of payments.

The age of the employed foreigner is important for entering into an agreement on running the PPK. This is because the employer is required to automatically enter into an agreement on running the PPK in the name and on behalf of all individuals who are 18 years of age and under 55 years of age and who have employment status.

An agreement on running the PPK - for and on behalf of individuals who are at least 55 years of age but under 70 years of age - is entered into by the employing entity only upon their request. The employer does not enter into a PPK agreement for and on behalf of individuals who are over 70 years of age.

Another condition for concluding an agreement on running the PPK is that the employed person - also a foreigner - must have the required period of employment with a given company. The employer should conclude the agreement on running the PPK only after the third month of employment with this employer, but not later than on the 10th day of the month following the month in which the 3-month period of employment expired.

The period of employment includes all periods from the previous 12 months that took place in this entity, as well as periods of employment in other entities, if under separate legislation the employer is their legal successor. In the case of persons performing outwork, the period of employment with the

previous employer is included in the period of employment, if the change of employer took place in accordance with the principles specified in Article 23(1) of the Labour Code (transfer of the workplace or its part to another employer). This refers to a situation in which the takeover of the employer occurs as a result of events such as the sale of a business, lease or rental of part of the enterprise. When calculating the 3-month employment period, a month is counted as thirty days, both for contracts governed by the Labor Code and for contracts governed by the Civil Code. A period of 3 months of employment is interpreted as 90 days.

Example

A foreigner (45) was employed under a contract of employment with a company running the PPK. This means that his employer is required to automatically enter into an agreement on running the PPK on behalf of this foreigner after the foreigner has worked for 3 months (the foreigner is not yet 55 years old), and the foreigner will not be required to apply for this agreement for this purpose.

Example

A foreigner (58) was employed under a contract of employment with a company running the PPK. This means that his employer will only be required to enter into an agreement on running the PPK on his behalf if the foreigner submits an application to enter into this agreement (the foreigner is over 55 years of age).

III. Rules for accumulation of savings in the PPK by foreigners

1. Duties of the PPK participant

Most of the duties related to the proper functioning of the PPK programme are performed by employers and financial institutions. As far as the PPK participant is concerned, he/she should ensure that:

- ✳ the employer has the employee's updated identification information - if the employee's information given to the employer changes, the employee should immediately update it, i.e. inform the employer of the changes. The employee should ensure, in particular, that the employer has his/her current contact details, i.e. e-mail address and telephone number (these details provided to the financial institution which will keep his/her PPK account will enable efficient contact, if needed);
- ✳ a financial institution has his/her current identification data - if the data changes, the PPK participant is obliged to immediately, no later than within 30 days from the date when the change of identification data occurs, inform the financial institution running his/her PPK account about the change.

The PPK participant should also remember to inform his/her employer about his/her PPK accounts if the participant changes his/her place of work.

Example

An employee-foreigner saving in the PPK terminated from his previous job and, as of 1 October 2020 has been employed by a company with more than 50 employees. His three-month employment period (90 days of employment) expired on December 29 of that year. This means that the employer will have to enter into an agreement on running the PPK until 10 January 2021 - in the name and on behalf of that employee.

Between January 10 and January 17, that employee should inform his employer of the PPK agreements entered into on his behalf. For this purpose, he should make a declaration to the employer. A specimen of the declaration is available in three languages at www.mojepk.pl in the "Downloads" tab. It just needs to be printed, filled out, signed and submitted to the employer. This will allow the employer to take action so that the employee's existing savings accumulated in the PPK are credited to the employee's new PPK account - to apply on behalf of the employee for a

transfer payment of the employee's savings to the employee's PPK account into which payments are currently made.

2. Contributions to the PPK

Participation in the PPK of both a foreigner and a Polish citizen is based on the same principles. Contributions to a participant's PPK account come from three sources:

- ✳ from the employing entity,
- ✳ from an employed person,
- ✳ from the state.

The employer and employee make basic contributions to the PPK and, if they decide to do so, additional contributions as well.

Contributions to the PPK	Basic contribution (compulsory)	Additional contribution (voluntary)	Maximum contribution
of the Employer	1.5% of remuneration	up to 2.5% of remuneration	4% of remuneration
of the employee	2% of remuneration The basic contribution may be less than 2% of remuneration, but not less than 0.5%, provided that the remuneration of the PPK participant earned from various sources in a given month does not exceed 1.2 times the minimum remuneration.	up to 2% of remuneration	4% of remuneration
Total maximum contribution to the PPK			8% of remuneration

Contributions to the PPK - financed by the employee

a. Basic contribution of the employee

The employee's basic contribution is 2% of his/her remuneration. In the case of persons whose total remuneration earned from various sources in a given month does not exceed the amount corresponding to 1.2 times the minimum remuneration (in 2021 - PLN 3,360), it may be reduced even to 0.5% of the remuneration. It is the employer's responsibility to inform the employee who is a PPK participant about the possibility of reducing the basic contribution, but the decision itself is up to the employee.

If the employee would like to take advantage of the reduced basic contribution, the employee should submit a declaration to the employer stating the amount (between 2% and 0.5%). A specimen of the declaration is available in three languages at www.mojepk.pl in the "Downloads" tab.

Submission of the employee's declaration on reduction of basic contribution does not affect the amount of employer-funded contributions or subsidies received from the state.

Example

The employee - a PPK participant, whose monthly remuneration amounts to PLN 2,600, decided to reduce the basic contribution to 0.5%. Previously, he paid 2% and his employer paid 1.5%. Although the employee has significantly reduced his financial contribution to building his savings, the employer contribution will remain at its current level. This employee will also receive (after fulfilling the conditions set forth in the Act on PPK) an annual surcharge from the state - according to the same rules and in the same amount, i.e., PLN 240 as other PPK participants.

In the month in which the employee's remuneration (earned with that employer) is higher than the limit indicated in the Act - the employer is required to increase the amount of the basic contribution funded by the employee to 2% of the employee's remuneration.

The basic contribution, in the amount specified in the declaration reducing this contribution, is effective starting from the month following the month in which the PPK participant submitted a declaration accepted by the employer, until it is withdrawn, i.e., the participant submits a new declaration on the amount of the basic contribution.

A person who has decided to lower the basic contribution can always:

- ✳ return to a 2% base contribution (waive the reduction),
- ✳ change its amount (e.g., instead of 0.5% of remuneration, pay 0.8% or 1% of remuneration).

A specimen of the declaration on change of the amount of the employee's basic contribution is available in three languages at www.mojepk.pl in the "Downloads" tab.

b. Additional contribution of the employee

In addition to the basic contribution, a PPK participant may make an additional contribution of up to 2% of remuneration. Its amount shall be specified in a declaration submitted to the employer. A specimen of the declaration on funding of additional contributions, which can be used by the employee, is available in three language versions at www.mojeppk.pl under "Downloads".

The declaration on funding of additional contributions is effective as of the date it is submitted. This means that from the remuneration paid to the PPK participant after submitting this declaration, the employer will calculate and collect the additional payment.

Example

The employee has been a PPK participant since 12 November 2019. At the beginning of December, he decided to finance an additional contribution of 2% of remuneration in addition to the basic contribution.

A few days after the declaration on funding of additional contributions was filed, the PPK participant received overtime pay. The employer will already charge him an additional contribution on this remuneration (the declaration on funding of additional contributions is effective from the date of its submission) - at the rate of 2%.

The Act on PPK only indicates the maximum amount of additional contribution. The limit is 2% of the employee's remuneration. This means that the employee can declare it in any amount, of course, within the limits set by the law.

The additional contribution is funded only by the employee who has decided to make the contribution. The employee's filing of the declaration on funding of additional contributions does not impose an obligation on the employer to fund the additional contribution. The same works in reverse.

Employer-funded contributions

a. Basic contribution

The basic contribution funded by the employing entity is always 1.5% of the employee's remuneration, regardless of the employee's earnings. This means that the employer does not have the opportunity to reduce it.

Enrolling the employee into the PPK means that the employee's employer is required to contribute at least 1.5% of remuneration to the employee's PPK account.

b. Additional contribution

The employer may also declare in the agreement on managing the PPK to make additional contribution of up to 2.5% of the employee's remuneration.

The Act on the PPK gives the employer the possibility to vary the amount of the additional contribution for employees, however, the variation of the amount of these contributions should be made taking into account the provisions on the prohibition of non-discrimination in employment.

Contributions to the PPK financed by the employing entity are not included in the remuneration constituting the basis for determining the amount of contributions for pension and disability insurance. They also do not form the basis for sickness, accident and health insurance contributions.

However, they constitute additional income to the employee on which income tax is charged. The income of taxpayers up to the age of 26 resulting from a business relationship, employment relationship, outwork employment, co-operative employment relationship and mandate contracts is exempt from this tax up to the amount of PLN 85,528 in a tax year.

The exemption applies regardless of the number of contracts or the number of payers. This means that a PPK participant under the age of 26, whose income does not exceed the annual limit, will not pay income tax also on PPK contributions financed by the employing entity.

The employer calculates and transfers to the selected financial institution the contributions financed by itself and by the employee, starting from the month following the month in which the legal relationship arising from the agreement on running the PPK arose.

Contributions funded by the employing entity are calculated and contributions funded by the PPK participant are calculated and deducted from the PPK participant's remuneration when the employing entity pays the remuneration. Contributions shall be made by the 15th of the month following the month in which the contributions were calculated and collected.

Example

The agreement on running the PPK was entered into in October 2020. Hence, the employee already became a PPK participant in that month. If the first remuneration after concluding an agreement on running PPK is paid in October, the contributions to PPK should be made (transferred to the financial institution on the PPK account)

no later than 15 November 2020. If the first remuneration after concluding an agreement on running PPK is not paid until November, the deadline for making contributions to PPK will be delayed by one month. In such a situation, the first contributions must be calculated and collected on the November pay date and deposited into the PPK account no later than by 15 December 2020

The basis for calculating contributions to PPK is the remuneration of the participant, which, within the meaning of the Act on PPK, means the basis for calculating contributions for pension and disability insurance of a PPK participant, referred to in the Act on Social Insurance System, without applying the 30-fold limit (see Article 19(1) of that Act) and excluding the basis for calculating contributions for pension and disability insurance of persons on child care leave and receiving maternity benefit or benefit in the amount of maternity benefit.

An employee - a foreigner who performs work remotely (performs work specified in the contract for a definite period of time outside the place of its permanent performance on the instructions of the employer) is entitled to remuneration. This remuneration continues the basis for calculating contributions to the PPK. An employee who works remotely will not have a break in the PPK savings.

Contribution from the State

In addition to the contributions financed by the employer and the participant him/herself, the PPK participant's account is also credited with contributions from the state. This includes the welcome contribution and annual surcharges.

The welcome payment of PLN 250 will be received by employees who will be PPK participants for at least 3 full calendar months and for 3 months the basic contributions financed by them will be made. It will be credited to their PPK account within 30 days after the end of the quarter in which the employee met the conditions indicated in the Act.

An annual surcharge of PLN 240 will be granted to PPK participants, whose basic and additional contributions in a given year (financed by the employee and the employer) amount to at least 3.5% of the 6-fold of the minimum remuneration applicable in the year for which the surcharge is due.

Participants whose base contributions are less than 2% must accumulate at least 25% of the above amount.

It should be remembered, however, that the amount of contributions to the PPK, which determines entitlement to annual surcharge, is not reduced due to the fact that a PPK participant started saving during the year.

The employee is eligible to receive one welcome contribution and an annual surcharge regardless of the number of PPK accounts held. If the employee has more than one PPK account (and this is as much as possible), the annual surcharge will be transferred to the PPK account maintained under the agreement on running the PPK entered into in his/her name and on his/her behalf at the latest.

The annual surcharge will be transferred to the account of the PPK participant who fulfilled the conditions for receiving it, no later than on April 15 of the year following the year for which it is due.

In case a foreigner, who is a participant of PPK, decides to return to his/her country, his/her savings in PPK will remain the property of the foreigner. Like any other PPK participant, the foreigner will still have the freedom to decide on the further use of the accumulated funds, i.e. the funds will remain in the PPK account until withdrawal, transfer payment or return. However, he/she has to remember that once he/she returns to his/her home country and finishes working in Poland - he/she will no longer be able to save actively in PPK, i.e. no contributions will be made to his/her account either from himself/herself, his/her employer or the state.

Tax on contributions to the PPK

Contributions financed by the employer - both basic and additional - constitute the PPK participant's income from employment (in case of the employee it is income pursuant to Art. 12(1) of the Personal Income Tax Act). Therefore, an advance personal income tax should be calculated and collected from them in accordance with the tax scale applicable to the given employee. The advance payment of income tax is deducted from the employee's remuneration.

A participant's income from contributions made to the PPK, financed by the employer, arises when those contributions are transferred to the PPK account. In practice it means that if the payment of remuneration precedes the payment into the PPK and the employer does not have anything to deduct the advance tax payment from (after that date, until the end of the month, the employer will not make any payment to the employee), the employer will add the employee's income on that account to the income from the employment relationship reported in the PIT-11 information for the year in which the employee received that income.

Example

Assumption:

- ✳ *The employee is paid in a monthly shifted manner i.e. by the 10th of the following month,*
- ✳ *remuneration for January was paid on 10 February and remuneration for February was paid on 10 March,*
- ✳ *after the March payday, the employer no longer made any cash contributions to that employee*
- ✳ *PPK contributions, accrued and collected on remuneration due for January and paid in February, were made on 15 March. Making a contribution to the PPK on March 15 means that on that date the employee received income from the employer-financed contribution, and therefore the advance income tax calculated on the contribution should be collected by the employer in March. However, due to the fact that the payment of monthly remuneration (10 March) preceded the payment into the PPK (15 March) and the employer has nothing to deduct the advance tax payment from in March (after that date, until the end of March, the payer has not made any payment to the employee), the employer will add the employee's income on that account to the income from the employment relationship reported in the PIT-11 information.*

If the employer coordinates its activities so that the payment into PPK will take place together with the payment of remuneration, the collected advance payment should cover the total income from the employment relation, including the contributions into PPK made from the employer's funds.

Tax residence vs. tax on contributions to the PPK

The scope of tax liability of natural persons in Poland is determined based on the taxpayer's place of residence for tax purposes - tax residence rather than citizenship.

PPK participants, if they have a place of residence in the territory of Poland, are subject to tax obligation on their total income, including income connected with PPK, regardless of the place of location of the sources of income (unlimited tax obligation). However, PPK participants who do not have a place of residence in the territory of Poland are subject to tax obligation only on income, including income related to PPK, earned in the territory of Poland (limited tax obligation). The double taxation conventions signed by Poland

should also be taken into account. Therefore, if in accordance with the relevant agreement on avoidance of double taxation the income of a PPK participant - non-resident, including the income obtained from the contributions to PPK, is not subject to taxation in Poland, and his/her place of residence was documented by means of the certificate of residence, his/her employer is not obliged to collect the advance income tax.

IV. Rules for using savings in the PPK by foreigners

1. Leaving funds on the PPK account

A foreigner - PPK participant may decide to leave funds on his/her PPK account regardless of whether he/she intends to stay in Poland or move out of it. In this way, the accumulated funds will continue to work and the participant's savings will be continuously multiplied. Of course, as these funds are his/her private property - the PPK participant will be able to withdraw them at any time.

2. Withdrawal after age 60

It is entirely up to the PPK participant to decide when to start withdrawing savings from the PPK account and how. He/she can make them in a single payment or in installments. However, which option a given participant decides on will determine whether or not he/she will have to pay capital gains tax on the money withdrawn.

If a PPK participant over 60 decides to withdraw all of the savings at once (in one installment), he or she will have to pay 19% capital gains tax on 75% of the funds. If he or she chooses to withdraw 25% of the accumulated funds at one time and the rest (i.e. 75% of the funds) in at least 120 monthly installments (10 years) - he or she will not pay this tax. The same will happen if - wishing to make the savings last longer - the number of installments increases (e.g. he/she will be withdrawing the funds not for 10, but for 15 years), or if he/she decides to withdraw the entire accumulated savings in at least 120 monthly installments.

If a foreigner PPK participant is married and his/her spouse is also a PPK participant, they may combine their savings in PPK and decide to pay out their savings in the form of one joint benefit, the so-called spousal benefit. It is paid in at least 120 monthly installments. In this case, no tax is charged.

When is it possible to apply for spousal benefits?

In order for spouses to be eligible for a joint PPK withdrawal, both spouses must:

- ✳ Be at least 60,
- ✳ have a PPK account with the same financial institution,
- ✳ apply for a spousal benefit savings withdrawal.

3. Early withdrawal of funds from PPK to cover own contribution

A PPK participant who is a foreigner may use the funds accumulated in the PPK account to cover the own contribution when taking out a loan for housing purposes. Such entitlement is available to a PPK participant who is under age 45. Can withdraw up to 100% of the funds held in the PPK account (with the obligation to return it to the PPK account) and use it to cover the own contribution in connection with taking out a loan for the construction/ renovation of a residential building, purchase of a house, apartment or land.

In order to do so, he/she should apply to the financial institution that runs his/ her PPK account for an agreement under which the funds would be withdrawn. It should be remembered that the payment "for housing purposes" can be made by PPK participant for financing only one investment.

What should the agreement based on which the PPK participant will receive the payment contain?

- ✳ designation of the investment to be financed by the loan,
- ✳ withdrawal rules and schedules,
- ✳ the rules and deadlines for repayment of withdrawn funds, with the deadline for repayment:
 - ✳ may not begin later than 5 years from the date of withdrawal,
 - ✳ may not last longer than 15 years from the date of withdrawal.

4. Early withdrawal of PPK funds in case of illness

Critical illness shall mean:

a) total inability to work within the meaning of the Act of 17 December 1998 on pensions from the Social Insurance Fund, established in the form of a ruling by a certifying physician or medical board of the Social Insurance Institution for a period of at least 2 years,

b) moderate or significant degree of disability within the meaning of the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities of 27 August 1997, established in the form of a ruling by the Disability Evaluation Board for a period of at least 2 years,

b) moderate or significant degree of disability within the meaning of the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities of 27 August 1997, established in the form of a ruling by the Disability Evaluation Board for a period of at least 2 years,

(d) diagnosis of one of the following medical conditions in an adult: limb amputation, bacterial encephalitis or meningitis, viral encephalitis, Alzheimer's disease, Crohn's disease, motor neuron disease (amyotrophic lateral sclerosis), Parkinson's disease, muscular dystrophy, tuberculosis, kidney failure, multiple sclerosis, human immunodeficiency virus (HIV) disease, cardiomyopathy, malignant neoplasm, systemic visceral lupus, stroke, loss of speech, hearing, or vision, ulcerative colitis, or heart attack,

(e) The child has been diagnosed with one of the following medical conditions: poliomyelitis, meningitis, encephalitis, aplastic anemia, chronic active hepatitis, epilepsy, rheumatic fever, acquired chronic heart disease, paralysis, loss of vision, deafness (loss of hearing), post-transfusion HIV infection, end-stage renal disease, tetanus, diabetes, benign brain tumor, organ transplantation, valve reconstructive surgery, aortic reconstructive surgery, or malignant neoplasm.

A PPK participant may also withdraw funds from the PPK account in the event of a critical illness of the PPK participant him/herself, his/her spouse or child.

A PPK participant may apply to a financial institution for a withdrawal of up to 25% of the funds accumulated in his/her PPK account without the obligation of repayment, attaching a certificate or a document from a medical doctor confirming the diagnosis of a critical illness. Withdrawal shall be made either in one time or in installments), no later than 14 days from the date of application. The request to withdraw 25% of the funds in the event of a critical illness of the participant, the participant's spouse or child may be made by the participant more than once. Funds withdrawn will not be reduced by tax.

In the event of a critical illness, it is irrelevant when the illness occurred in order to use the funds accumulated in the PPK account. This may also happen during participation in the PPK as well as during a period when the participant has not yet saved in the PPK.

5. Return of funds from the PPK before the age of 60

A foreigner - a PPK participant may also at any time return the funds accumulated on the PPK account, i.e. withdraw the savings accumulated on the account in the form of cash. The agreement on running the PPK shall specify the time and manner in which such refund shall be made, the terms and conditions thereof, including the form and place of filing.

In this case, the financial institution deducts 30% of the funds from the contributions financed by the employing entity (the deducted funds are transferred to an account designated by the Social Security Institution ZUS and the information is recorded in the participant's pension account with the Social Security Institution ZUS as his/her pension contribution). Funds from the welcome contribution and annual surcharges from the state are returned in full to the Labor Fund.

A PPK participant making a return will receive:

- ✳ 70% of the funds derived from contributions funded by the employing entity, less any capital gains tax due; and
- ✳ 100% of the funds derived from contributions funded by the participant, less any capital gains tax due.

The transfer of PPK funds to the participant may be made to a foreign bank account designated by the PPK participant. However, this may involve additional charges such as currency conversion.

6. Transfer payment to other PPK accounts

A PPK participant may at any time make a transfer withdrawal of savings accumulated in PPK to other PPK accounts. The submission of such an instruction by the participant will result in the transfer of funds accumulated in his/her PPK account to another PPK account. There are no costs or taxes for the participant to make such a transfer.

It is not possible to transfer the accumulated funds from the PPK account to pension programmes operating in other countries. A transfer payment abroad is therefore currently excluded.

7. Withdrawal of funds from PPK in case of divorce or marriage annulment

In the event of divorce or annulment of marriage and division of property, the funds accumulated in the PPK accruing to the participant's former spouse shall be transferred as:

- ✳ a transfer payment to the PPK or
- ✳ reimbursement in cash.

The nationality of a PPK participant does not affect the rules of distribution of PPK funds in case of divorce or annulment of marriage.

Transfer payment to a former spouse

The funds accumulated in PPK, which accrue to the former spouse after the division of joint property, are transferred to his/her PPK account, savings term deposit account or term deposit account on condition that they are paid out after the former spouse of the PPK participant reaches the age of 60. In this situation, the former spouse will not pay tax.

Cash payment to a former spouse

If a former spouse of a PPK participant cannot receive the funds accruing to him/her after the division of the joint property in the form of a transfer payment, he/she will receive the funds in the form of cash. However, if the former spouse has not yet acquired the right to a pension and is under age 60, the money will go to him or her reduced by:

- ✱ capital gains tax,
- ✱ 30% of funds from employer-funded contributions,
- ✱ surcharges from the state are returned in full to the Labor Fund).

8. Withdrawal of funds from the PPK in case of death of a PPK participant

In the event of the death of a PPK participant, PPK funds may be withdrawn at the request of the spouse of the deceased participant or an authorized person. It is sufficient for a person entitled to receive the funds to report to the financial institution that manages the funds of the deceased participant, present documents confirming his/her identity, the death of the PPK participant and, in the case of the spouse of the deceased participant, his/her marriage to him/her.

Citizenship other than Polish shall not prevent an heir or a designated beneficiary from receiving funds accruing thereto from PPK after the death of the PPK participant.

Funds accumulated on the PPK account shall be transferred to the spouse of a deceased PPK participant or to entitled persons in full amount - to the PPK, IKE or PPE account kept for them, or returned in cash. Persons entitled to the funds of a deceased PPK participant, to whom the PPK funds will be transferred after the death of the PPK participant, will not pay income tax.

Funds from the PPK acquired through inheritance are not subject to inheritance or gift tax, nor will they be reduced by capital gains tax or any other public liability. They are paid to the heirs in full.

See also:



[PPK Guide for HR and Payroll](#)



[PPK in practice: Taxes](#)