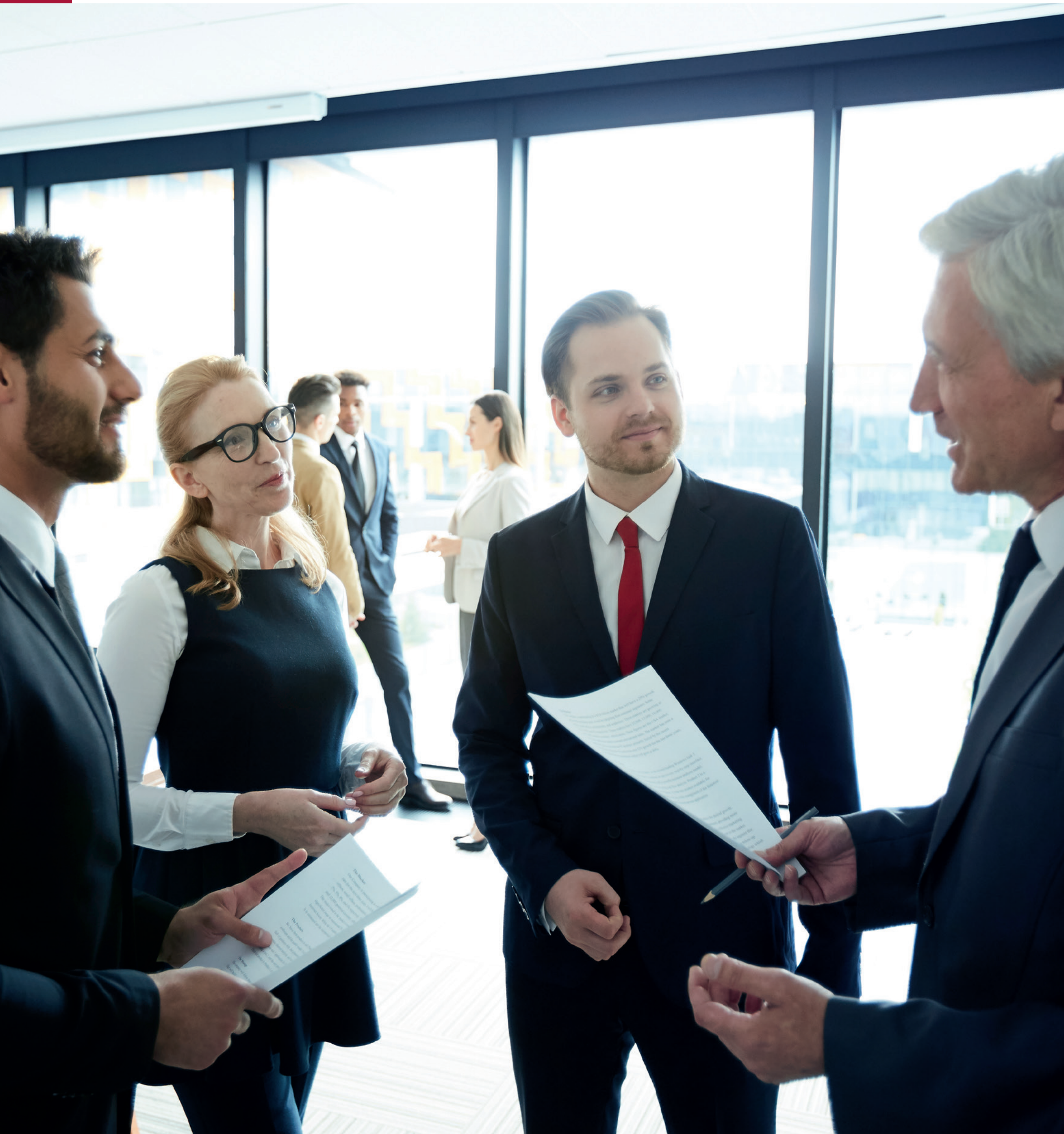
Employee Capital Plans (PPK)
QUESTIONS AND ANSWERS



1. What are PPK?

PPK, that is Employee Capital Plans, are a system of long-term saving for retirement. PPK are organised by the employer for their employees and co-funded by the employer. Participation in the PPK is voluntary – an employee may resign from saving in the PPK even after they are enrolled to it by the employer. Active participation in the PPK is voluntary for the employees. Employers have an obligation to maintain the PPK. The basic objective of the PPK is to increase the Polish citizens' savings and to provide them with additional financial security after they turn 60.

2. Who is obligated to maintain the PPK?

All employers that employ at least one person for whom the employment represents a mandatory title for retirement and disability pension insurance.

Persons employed under titles such as an employment contract, contract of mandate, agency contract and other service contract that represents a mandatory title for retirement and disability pension insurance have to be enrolled to the PPK. Participation in the PPK is possible after the lapse of a third month of their employment. The employment period includes the employment from the preceding 12 months with the employer as well as employment with other companies if your current employer is their legal successor in terms of legal employment relationships.

If the employer maintains an EPS (Employee Pension Scheme) on appropriate terms (that is with a contribution of at least 3.5% with the employees' participation of at least 25%), the PPK Act does not apply to them. Employees with employment contracts (persons employed under the civil law, also if it is provided for by a workforce agreement) may participate in the EPS at the employer's, if they meet the participation conditions and submit a declaration of joining the scheme. Employers exempt from the obligation to maintain an PPK are also micro-enterprises who employed up to 9 employees in at least one of the last two financial years, and also when their annual net turnover or the sum of the balance sheet assets as at the end of one of those years has not exceeded the equivalent of 2 million EUR. The exemption from the obligation to establish an PPK applies only to those micro-enterprises where all employees submit a declaration of resignation. Despite this, the enterprise will still use the so-called auto-enrolment mechanisms (resumption of making contributions for the persons who have resigned) that are applied in accordance with Article 23 sec. 5-6 of the PPK Act.

3. Who and on what terms can join the PPK?

All employees aged 18 to 55 are automatically enrolled into the scheme. Participation is only possible for people of age. Therefore, underage employees are excluded from the PPK. Automatic enrolment means that the employer makes on their behalf and for their benefit (within the time limits designated under the Act) an PPK maintenance contract with a financial institution. People aged 55 to 70 join the PPK on a voluntary basis. Such people participate at their own request. The employer is obligated to inform them of their right to make an application. Filing an application means that the employer is obligated to make an PPK maintenance contract for them.

Persons who turned 70 on the first day of their employment at the latest cannot join the PPK. The exclusion only pertains to the obligation to make an PPK maintenance contract and apply the contribution resumption mechanism (automatic enrolment) or to resume payments voluntarily after previous resignation. This does not mean that an employee who turned 70 ceases to participate in the PPK.

If an employee wants to resign from the PPK they file a written request. They have to renew it every 4 years – if they fail to do so (from 1st of April 2023), they will be automatically re-enrolled after 4 years.

4. Who is exempt from establishing PPK?

The Act exempts the employer from the obligation to establish an PPK if they:

- on the day when the PPK Act becomes applicable as indicated in Article 134 sec. 1 of the Act, maintain the Employee Pension Schemes for at least 25% of the employees (also those employed under civil law contracts should be included when calculating the level of participation) with a 3.5% contribution (i.e. the employer charges and pays basic contributions in that amount);
- are a microenterprise – as long as all employees refuse to participate in the PPK;
- are a natural person who employs, to the extent not related to their business activity, a natural person to the extent not related to the business activity of that person.

Self-employed persons who do not employ other persons are under no obligation to apply the Act and do not establish the PPK.

5. What are the employer's obligations in relation to the PPK?

- To sign an PPK maintenance contract with a financial institution of their choice listed in the PPK register; detailed principles of selection of such institution are described in Article 7 of the PPK Act.
- To sign an PPK maintenance contract on behalf of and for the benefit of their employees.
- To charge the basic and the additional contributions in a timely manner.
- To provide information, for instance to inform the financial institution that the employee/participant has submitted a resignation from contributions to the PPK (within 7 days after it is submitted).
- Re-enrol the employee in the PPK – if they have not submitted another request for resignation after 4 years (the first such obligation will arise in 2023).

6. What benefits does the employer gain in relation to establishment of the PPK?

- A ZUS relief – the basic contribution and the additional contribution in the PPK funded by the employer are part of the remuneration on which the employer will not charge contributions to retirement and disability pension insurance.
- A tax relief – the costs that the employer will incur in relation to the implementation and maintenance of the PPK will constitute their tax deductible expenses.

7. What benefits does the employee gain in relation to the PPK?

- A higher retirement pension – thanks to their own contributions, contributions from the employer and the state contributions from the Labour Fund (the welcome contribution of PLN 250 and the annual contribution of PLN 240), the employee may gather additional funds for their retirement.
- Contributions from the Labour Fund are not treated as the employee's revenue so the employee does not pay any tax on them.
- A tax relief – if the employee starts disbursing money from the PPK after they turn 60, they will not pay a tax on capital gains.
- Option of funding of their own contribution for residential purposes from the funds gathered in the PPK.
- Option of using the savings in the PPK in difficult life circumstances, for instance an illness.
- Inheritance – the money gathered in the PPK are inherited in the event of the participant's death; the heirs will not pay an inheritance tax.

8. What costs of contributions to the PPK are borne by the employee?

Contributions to the PPK provided by the employer represent the employee's revenue. Therefore, the participant in the PPK will pay a personal income tax on them. If the employer is a tax payer, the participation in the PPK means an advance towards the income tax increased by the amount of the contributions funded by the employer.

9. Can a participant in the PPK reduce the amount of the basic contribution provided by them?

Yes, but the contribution cannot be lower than 0.5% of the remuneration and if the participant in the PPK received in a particular month less than 120% of the minimum remuneration (from all sources of income jointly).

10. What are the applicable principles during determination of additional contributions?

The employee determines the amount of their additional contribution themselves. However, it may not exceed 2% of their remuneration.

The employer also determines on their own the amount of the additional contribution that will be funded by them. It is determined in the PPK management contract. The additional contribution may be the maximum of 2.5% of the gross remuneration. The employee's declaration of an additional contribution does not obligate the employer to declare their own additional contribution.

11. Does the employer have a right to vary the amount of the contributions paid by them?

Yes – as long as the contribution is not higher than 2.5% of the gross remuneration.

The employer may vary the additional contribution owing to seniority or otherwise, based on rules and regulations of remuneration or a collective agreement applicable at the employer's.

12. What is the basis for calculation of contributions to the PPK?

The contribution to the PPK is calculated on the same basis on which the contributions to retirement and disability pension insurance are paid. In the majority of cases, this is based on the gross remuneration that the employee receives on account of their work.

However, there are components of remuneration that are not included in the base for assessment of retirement and disability pension contributions and will not be included in the base for calculation of the PPK contributions either. The components include:

– jubilee awards,

– awards for outstanding professional achievements,

– benefits on account of severance and compensations,

– benefits from the Company Social Benefit Fund (ZFŚS),

– equivalents for the employee's own equipment used for professional purposes.

13. How much are the contributions from the Labour Fund?

PLN 250 – a one-off welcome contribution.

PLN 240 – an annual contribution for persons who pay amounts above the agreed threshold (PLN 588 in 2021) into the PPK during a calendar year. The employee may only receive a single welcome contribution and once a year – a single annual contribution (regardless of how much they pay into the PPK).

The annual contribution is due when the sum of the basic and the additional contributions funded by the employer and the employee into the PPK in a calendar year is equal to at least the amount of the basic contributions due on the amount that represents 6 times the minimum remuneration applicable in the year.

In the case of employees who have a right to reduce the amount of their basic contributions owing to the income below 120% of the minimum remuneration, it represents at least 25% of the amount of the basic contributions calculated on 6 times the minimum remuneration applicable in the year.

14. When does a new employee have to be enrolled in the PPK?

If the employee does not submit a declaration of resignation from the PPK they have to be enrolled by the 10th day of the fourth month of their employment with a particular employer.

Example 1

An employee was hired on 3 January. They have to be enrolled in the PPK by 10 May.

Example 2

An employee was hired on 30 March. They have to be enrolled in the PPK by 10 July.

15. What are the consequences for the employer if they fail to enter into an PPK management contract within the time limit set?

The employer may pay a fine – up to 1.5% of the remuneration fund at a particular entity providing employment in the financial year preceding the failure to meet the obligation to enter into an PPK management contract.

16. What are the consequences for the employer who will delay making an PPK maintenance contract with an employee or will delay payment of the contributions or maintain documentation incorrectly?

The employer may pay a fine – from a thousand to a million zlotys.

17. What are the consequences for the employer if they fail to pay contributions to the PPK within the time limit set?

The employer may pay a fine – from a thousand to a million zlotys.

18. What are the consequences for the employer if they do not notify the details required under the Act, provide untrue explanations or fail to maintain documentation concerning calculation of contributions to the PPK?

The employer may pay a fine – from a thousand to a million zlotys.

19. What are the consequences for the employer if they encourage the employees to resign from participation in the PPK?

The employer may pay a fine – up to 1.5% of the remuneration fund at a particular entity providing employment in the financial year preceding the offence.

20. What is the process of making an PPK management contract?

The employer selects a financial institution with which they want to make a contract. Then they make an PPK management contract with them. An PPK management contract should be made at the latest 10 working days before the day on which the employer is obligated to make an PPK maintenance contract with respect to the first employee.

If they fail to do that on time, the Polish Development Fund (PDF) will send a request to make such a contract with the designated financial institution or to notify the PDF that such a contract has been made with another institution – within 30 days after receiving the request.

Next, an PPK maintenance contract is made with the financial institution that has been selected by the employer and with which the PPK management contract has been made. The contract is made on behalf of the employee by the employer. If the employee is under 55 and has not submitted a declaration of resignation, the PPK maintenance contract should be made by the 10th day of the month following the third month of their employment with the employer. The employer should take into consideration the employment periods from the preceding 12 months.

21. Where do the money from the PPK contributions go?

The contributions to the PPK go to a target date fund (TDF). Every management institution is obligated to establish eight or nine such funds. The TDF invests the contributions in accordance with the PPK participant's age. The employee is enrolled automatically to the fund appropriate for their current age.

22. What does the investment in a target date fund entail?

Management of a target date fund consists in running an investment policy based on the PPK participant's age. The younger the participant, the higher risk in investment of their funds will be admissible. Investment policies of particular sub-funds are supposed to be adjusted to the participant's age in order to minimise the risk of losses as the participant approaches 60.

23. Can an employee change the sub-fund to which they were enrolled owing to their age?

Yes – an employee as an PPK participant has a right to change the sub-fund. The change is free of charge twice a year. The fees related to the third and each subsequent conversion shall be set by the fund managing authority. In order to do so, the employee submits a request directly to the financial institution to transfer their funds to another target date sub-fund or sub-funds. In the request, the employee has to specify a percentage allocation of the the funds already accumulated in the PPK between particular sub-funds. Such conversion applies to funds already accumulated in the PPK account as well as future contributions.

24. Is a register of PPK management contracts maintained?

Yes – it is maintained by the Polish Development Fund (PDF).

25. Who notifies a management contract to the PDF register?

The financial institution that manages the PPK.

26. Is the money accumulated in the PPK inherited?

Yes – the PPK participant indicates a beneficiary. If they fail to do so, the inheritance ensues in line with the general rules. In the event that an PPK participant was married at the time of death and the spouses established joint property – the financial institution which maintains the participant's PPK transfers half of the funds accumulated in their PPK account subject to the joint property to the PPK, IRA or EPS account of the spouse.

27. What is the order of inheritance?

Spouse	The eligible person	The estate
half of the money covered under the joint property	half or all of the money – if the participant was not married	half or all of the money – if the participant was not married

28. Can the employee disburse money from the PPK before they turn 60?

Yes, it is possible to disburse the money before turning 60. However, in this situation the money from the PPK account is reduced by:

- the annual contributions from the Labour Fund,
- the welcome contribution from the Labour Fund,
- 30% of the contributions from the employer (they will be transferred to the ZUS).

The employee will also pay a 19% income tax – both on the amount accumulated in its PPK and on the profit that results from investing the funds accumulated in the PPK.

The amount of the deductions and taxes is shown in the table:

	Deduction	Tax
Employee's contributions	no deduction	19% income tax
Employer's contributions	30% of the contributions is transferred to the ZUS to the employee's account	no tax
	70% of the contributions is transferred to the employee	19% income tax
Contributions from the Labour Fund	100% deduction	no tax

29. In what situations and on what terms can the employee disburse money from the PPK?

Until the employee turns 60, they can disburse money from the PPK in four situations:
- in the case of a serious illness,
- for residential purposes,
- as part of a transfer disbursement,
- in form of a refund (with the effects described above).

When the employee turns 60, they can:
- disburse all the money accumulated,
- use the spousal benefit,
- disburse the money as part of a special type of transfer contribution.

Disbursement in the case of a serious illness

If the employee, their spouse or child becomes seriously ill, the employee may disburse up to 25% from the PPK. In order to do so, the employee submits in the financial institution that manages the PPK:
- a request for disbursement;
- a statement or certificate from a doctor confirming the diagnosis of a serious illness.

The disbursement will be made within 14 days after the request is submitted.

The definition of a serious illness is included in Article 2 item 23 of the PPK Act.

Disbursement for residential purposes

An employee who has not turned 45 can disburse up to 100% of the money accumulated for their own contribution to a loan for purchase or construction of a house or apartment. However, in this case the employee has to return the entire amount to their account in the PPK. The return should start at the latest after 5 years after the disbursement and finish at the latest after 15 years after the disbursement.

Transfer disbursement

A transfer withdrawal consists in transferring all the money from an PPK account to:

- Another PPK (e.g. when an employee changes jobs or in the event of a participant's death — to the PPK of a person inheriting the funds),
- IRA or EPS of an inheriting person (after the death of a participant).

A request for a transfer withdrawal may be submitted by an employee, their spouse or another authorised person.

Disbursement

When the employee turns 60, they will be able to disbursement the funds gathered in two parts:
- 25% at one time,
- 75% in at least 120 monthly instalments.

The amounts of the instalments may vary. The employee may order disbursement in a smaller number of instalments; however, in this case they will pay a 19% income tax on the profit from the funds gathered in the PPK.

Spousal benefit

The employee who turns 60 may request disbursement of money gathered under the spousal benefit. There are three conditions:
- the spouse has also turned 60;
- the spouses make contributions to the PPK in the same financial institution;
- the spouses submit a statement that they want to use the spousal benefit (the financial register

will create a joint register for them).

The spousal benefit will be paid out jointly, in at least 120 instalments. If one of the spouses dies before the last instalment is disbursed, the remaining part of the money will be paid out to the surviving spouse.

Transfer disbursement

Transfer disbursement also applies to an employee who has turned 60. It is a disbursement of the money from the PPK to:

- a term savings account – however, it has to be an account from which the anticipated disbursement in instalments will be possible for at least 120 months and without the option of obtaining the money otherwise, or
- life insurance – term or whole life insurance.

30. Will the PPK cause an increase in the costs of operation of the companies?

Yes. Implementation of the PPK involves two additional costs:

1) cost of contributions to the PPK funded for the employees;

2) organisational and administration costs involved in the launch and maintenance of the PPK.

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