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20 views PPE vs PPK



WOJEWÓDKA I WSPÓLNICY
KANCELARIA PRAWA PRACY



**INSTYTUT
EMERYTALNY**

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Introduction

The year 2019 will be the breakthrough year in the scope of additional pension security in Poland. Current opportunities for saving, including in particular, Employee Pension Programs (PPE) will be supplemented with a new institution, which will be Employee Capital Plans (PPK). They will constitute a new quality for the majority of entities operating in our country.

For the first time, a systemic framework for additional savings for retirement will be created, including solutions such as compulsory establishment and obligatory inclusion of the majority of employees to the PPK, as well as obligatory financing of contributions by participants and employers, strengthened by measurable financial incentives from the state. PPK will become a real alternative for PPE. As mentioned above, many entities will need to make a decision about choosing one of these two solutions.

The aim of this study is to assist in making this decision in the form of presenting a comparison of selected aspects of PPE and PPK.

Ph.D. Marcin Wojewódka
Oskar Sobolewski



20 views PPE vs PPK



1. Legal basis

The basis of the functioning of PPE is the Act of April 20, 2004 on Employee Pension Programs. It is a legal act comprehensively regulating PPE.



PPK will be regulated in the Act on Employee Capital Plans, a new legal act that will be passed in 2018.

2. Purpose and form

PPE is being created solely for the purpose of gathering participant funds to be paid after he has acquired pension rights.

PPE may be created in one of four forms:

- employee pension fund,
- a contract for employer to pay employee contributions to an investment fund,
- group life insurance contracts,
- foreign management.

The aim of **PPK** is the systematic saving by employed persons for the purpose of meeting their financial needs after reaching the age of 60 by purchasing and selling participation units in investment funds of a defined date.



3. Covered entities

PPE is a voluntary program for employers as well as for employees. This means that an employer may or may not create an Employee Pension Scheme. Moreover, even after the creation of PPE, employees are not obliged to join it.



PPK is an obligatory solution for employing entities that are obliged to set them up within a specified period, depending on the number of employees.

The management of PPE exempts the obligation to create a PPK.



4. Participants

Participants of **PPE** are mostly employees – persons employed under a contract of employment, full-time or part-time, under the age of 70, meeting the criterion of seniority specified in the PPE company agreement, which will provide the employer with an appropriate declaration. The criterion must be fulfilled by at least 50% of persons employed by the employer.

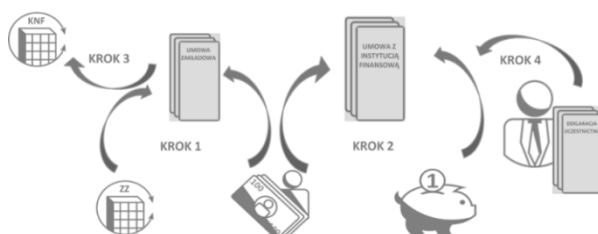
Participants of PPK are persons employed, if they receive remuneration consisting the premium basis for the obligatory pension scheme: employees, people who do housework, members of agricultural production cooperatives and agricultural wheel co-operatives, natural persons performing work on the basis of an agency agreement or contract of mandate or other contract for the provision of services, members of supervisory boards.

Obligatory participant of the PPK becomes every person employed under the age of 55 and a person aged 55-70 at its request. Persons over 70 years of age cannot participate in PPK.

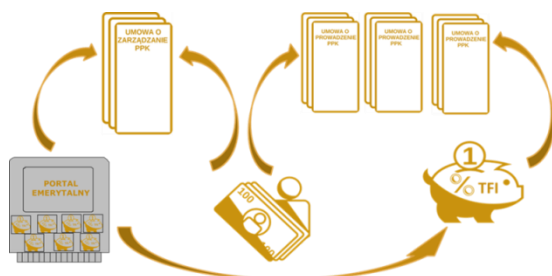


5. Creation scheme

Creation of PPE: the employer together with the representation of employees chooses the form of the program and the manager and determines the main assumptions of the program. They sign appropriate agreements, then the program is subjected to registration in the Financial Supervision Commission. Employees have the option of voluntarily joining the program.



Creation of PPK: the employing entity selects the PPK product from the Pension Portal and concludes the contract for managing the PPK. Then, on behalf of and for the benefit of individual employees, he concludes individual contracts for running a PPK.



6. Obligation to enroll employees

PPE: Lack of obligatory accession of PPE by an employee, accession only on the basis of a written declaration submitted by an employee, who meets the conditions specified in the company agreement. The employee becomes a PPE participant one month after submitting the declaration, at the latest.

PPK: Automatic entry to PPK by each employee up to 55 years of age, carried out by the employing entity within 7 days after the end of the 3-month employment period in this entity.



7. Ability to resign

PPE: Option to resign by the participant from participation in the PPE at any time, on the basis of a written declaration submitted by the participant to the employing entity.

As a result, the employer ceases to charge and pay contributions. No automatic re-recording.

PPK: The participant may resign from paying premiums based on a written declaration submitted to the employing entity. Every two years from April 1, 2020, there is an automatic re-recording of contributions payment. The participant may resign from paying contributions with effect from next month.



8. Premiums and other payments

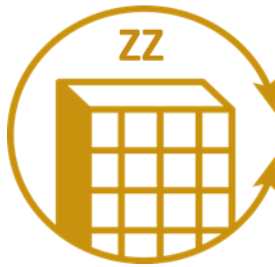
Premiums of employees	
PPE	PPK
Additional employee contribution if PPE has been created	Premiums paid by employed persons
The amount of additional premium determined in quota. Limit in 2018 – 19 993,50 pln	Obligatory basis contribution – 2% of remuneration
	Freewill additional contribution up to 2% of remuneration
Premiums of employers	
PPE	PPK
Obligatory contributions of employer, if PPE has been created	Contributions paid by the employing entities
The amount of basic contribution determined quota or by percents up to 7% of remuneration	Obligatory basic contribution – 1.5% of remuneration
	Freewill additional contribution Up to 2.5% of remuneration
Other payments	
PPE	PPK
No contributions	Welcome contribution – 250 pln (to 31 of december, 2020)
	Annual grant – 240 pln

In PPK, it is possible to vary the amount of additional contributions financed by the employer depending on the seniority of a given group of employees in the employing entity.



9. The role of employee representation

PPE: Constitutive role of employee representation—ability to create the **PPE** only under the permission of employee representation, which is the party to company agreement. Representation of employees by virtue of law are trade union organizations, and in the case of lack of representation, chosen in the mode adopted by a given employer. A company contract is a contract concluded by the employer with employee representation.



PPK: There is no obligation for the employing entity to cooperate with trade union organizations or other employees' representatives in the creation of the PPK. Trade unions have a consultative role in the process of selection by the entity employing the financial institution managing the PPK.

10. Agreements

PPE: Contract with a financial institution - concluded between the employer and the managing entity.

Contract agreement - concluded between the employer and employee representation.



PPK: Management contract for PPK - contract concluded between the employing entity and the financial institution.

Agreement for operating a PPK - contract concluded on behalf of and for each person employed by the employing entity with the financial institution.

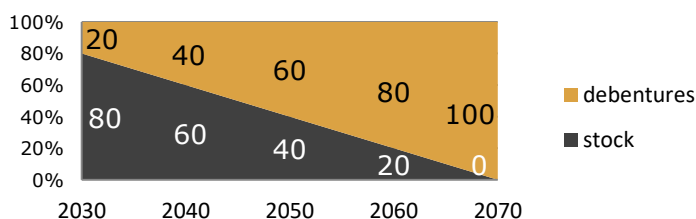


11. Rules for investing funds

The investment policy under PPE has not been regulated in detail in the Act. No statutory requirements.

The investment policy under the PPK was based on the model of defined date funds. It should be adjusted to take into account the need to limit the level of investment risk as the participant approaches retirement age. In connection with the conclusion of the contract for running a PPK, the funds collected by the participant are deposited in a fund defined by the date relevant to his date of birth. At the participant's request, it is possible to change the fund.

An example of the involvement of asset classes depending on the 2070 fund's perspective under the PPK



Source : Instytut Emerytalny own studies



12. Costs

The Act on Employee Pension Programs (**PPE**) does not currently specify a limit on the cost of running an EPP. Market practice makes the costs dependent on the type of funds under which the funds are invested. In PPE's created after the entry of the PPK Act, a cost limit of 0.6% of the net asset value will be implemented.

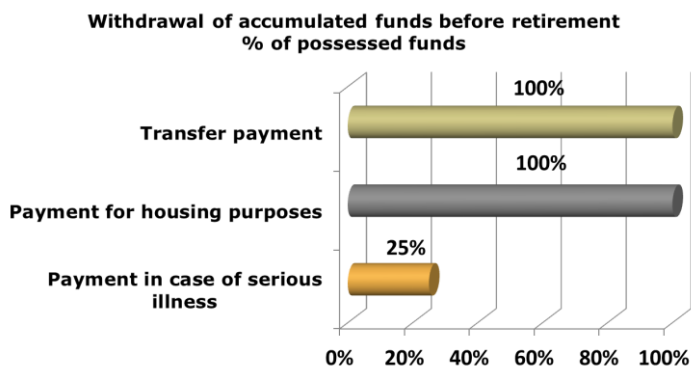
In case of PPK, it was decided to introduce a maximum limit of remuneration for managing an investment fund, in which funds accumulated in the PPK are deposited, in the amount not exceeding 0.5% on the net asset value of an investment fund on an annual basis and an additional 0.1% of remuneration for achieving the result by the fund.



13. Withdrawal of funds before retirement

In the event of termination of employment or the liquidation of **PPE**, there is the possibility of making a transfer withdrawal to the **IKE** or other **PPE**. Possible reimbursement in the event of liquidation of PPE (after deduction of 19% capital gains tax and the amount constituting 30% of the sum of basic contributions to ZUS).

In **PPK**, there are 3 types of payment: withdrawal to 25% gathered contributions in case of a serious disease, withdrawal to 100% funds to cover own contribution for the purchase of residential real estate with the obligation to return within a period of up to 15 years, transfer payment - transfer of funds from one register kept in PPK to another register kept in PPK, on the **IKE** of the former spouse of the participant or the entitled person, on the **PPE** of the entitled person, to the account of the participants' participant's term deposit.



Source: Instytut Emerytalny own studies



14. Withdrawal of funds for retirement

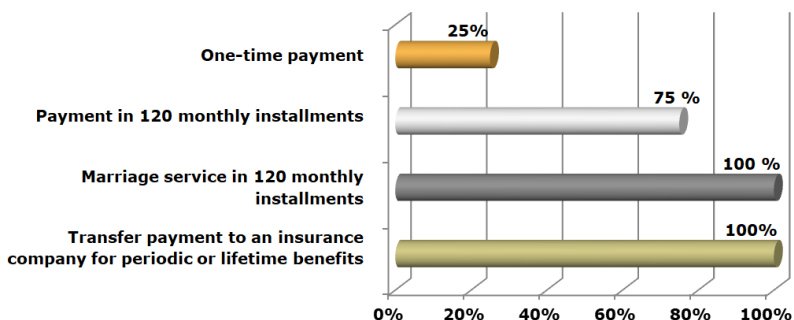
The possibility of withdrawing the funds collected in the PPE appears when you reach the age of 60 or 55 years and obtaining pension rights.

Obligatory payment of funds takes place when the participant has completed 70 years, if he has not applied for payment of funds beforehand.

In **PPK** there are possible following forms of payments :

- 25% once (unless the PPK participant has decided to pay this part in installments),
- 75% by installments in 120 monthly installments,
- 100% in the form of a marriage benefit in 120 monthly installments
- transfer payment to an insurance company for periodic or lifetime benefits

Withdrawal of accumulated funds after reaching retirement age % of possessed funds



Source: Instytut Emerytalny own studies



15. Information obligation of the employer

Employers in PPE are required to provide employees who have expressed their willingness to participate in the PPE to provide the following documents:

- declaration form - for accession to PPE
- copy of company agreement,
- informations about conditions of functioning the PPE,
- informations concerning withdrawal conditions.

Employing entity or the competent financial institution communicates to the participant in writing or if the participant agrees to it, on another durable medium, information about the terms of payment of funds accumulated in the PPK : in the first quarter of the calendar year in which the participant has reached the retirement age, within 30 days of obtaining the pension rights information about the payment terms.



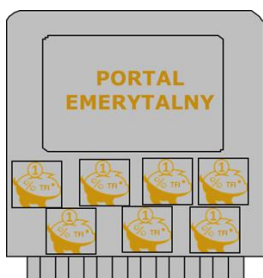
16. Supervision

In PPE, the supervision authority is the Polish Financial Supervision Authority. Each PPE is subjected to registration by a supervisory authority that maintains a register of programs.



In the PPE, the employer is obliged to provide the supervisory body with annual information on the implementation of the program by March 1 for the previous year..

Supervision over **PPK** is exercised by the supervision authority, which is the Polish Financial Supervision Authority, supervision is carried out within the scope of compliance with the law of operating the **PPK**. The financial institutions managing the PPK are required to submit annual information on the ongoing PPK to the supervisory authority, up to the last day of February for the previous year.



The second institution supervising TFI is the operator of the PPK Portal, a subsidiary of PFR, which allows TFI to participate in the PPK.



17. Ability to change the manager

In **PPE** it is possible to change the financial institution managing the program, if the premises indicated in the company agreement occur, however, it requires the amendment of this agreement and registration of the change by the Financial Supervision Authority.

In the case of PPK, change of the manager is possible at any time without the need for premises to occur. No need to register the change of the managing entity or to obtain permission for it.

The new entity managing the PPK will have to inform the KNF about this change.



18. Ability of liquidation

Concerning **PPE** liquidation of program can occur, inter alia, in case of:

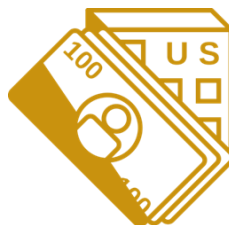
- liquidation or bankruptcy of the employer,
- opening the liquidation of the insurance company, if there is no transfer of rights (assignment) from the employer's contract with Trade for the benefit of other Trade,
- opening the liquidation of the employee pension fund if the fund is not taken over by another pension fund company,
- decrease of funds value accumulated in the program below the amount determined in the company agreement
- undertaking by the employer a decision on the liquidation of the program, provided that the employer concludes an agreement on the termination of the company agreement with the representation of employees (with 3 months' notice) or without such an agreement (with a 12-month notice)).

No possibility to liquidate the PPK, unless the employing entity creates PPE.



19. Public-law charger

The basic contribution (financed by the employer) is taxable income for the employee. While withdrawing from PPE - no flat-rate 19% tax from capital gains. Contributions are the expense of obtaining income. Basic contributions are exempt from obligatory social security contributions for employees and employers.



Basic and additional contributions (financed by the employer) are taxable income for the employee. The welcome contribution and the annual payment are exempt from personal income tax. Payments and transfer withdrawals are exempt from personal income tax, subject to the fact that the payment of 75% in installments is not taxed if it lasts at least 10 years.

The premiums are the deductible cost for the entity employing. Contributions made to the PPK financed by the employing entity are not included in the remuneration constituting the basis for determining the amount of compulsory contributions for pension and disability insurance.



20. PPE vs PPK relationship – alternative choice

PPE with a minimum basic contribution set at the level of at least 3.5% of remuneration will be dismissing employer from the obligation to create a PPK. Such PPE can be established at any time, also after when PPK provisions will enter into force.

The employing entity's obligation is to create a PPK within the time limit resulting from the applicable regulations, depending on the size of the entity counted with the number of employees. Dismissing from the obligation of creating the **PPK** is only possible in cases stipulated in the Act. Mainly in case of functioning PPK



PPE vs PPK – tabular comparison

	PPE	PPK
The obligation to create	NO	YES
Obligatory employer contributions	YES 3,5%	YES 1,5%
Obligatory employee contributions	NO	YES 2%
Investment rules	ANY	RESTRICTIONS
The role of Trade Unions	ENACTED	CONSULTANCY
Registration	YES EVERY PPE IN KNF	YES ONLY THE PPK PRODUCT ON THE PLATFORM
Supervision	KNF	KNF, PFR, PIP



Summary

This study comprehensively attempts to compare, in some important aspects, the functioning of PPE with those planned from 2019 PPK.

Remembering that the final shape of the bill of PPK, will be decided by the parliament, it is already possible to make a comparative comparison of selected issues in order to form an opinion and make a decision. However, it should be stipulated that the case of every employer is specific and unique. Therefore, everyone obliged to create a PPK should consider, before the date of the obligatory implementation of a PPK, to be able to use the alternative to the PPK, that is PPE.

We would like to emphasize that this studies contains aspects of only some of the most significant differences between PPE and PPK. This decision, concerning the choice of PPE vs. PPK, should be taken independently by everyone, after considering also many other aspects.



Information about Wojewódka i Wspólnicy Sp. k.

Law Office „Wojewódka i Wspólnicy” Sp. k. is a Warsaw Labor Law Firm specializing in helping employers in the field of collective and individual labor law, social security and pension benefits.

www.wojewodka.pl

Information about Instytut Emerytalny

Instytut Emerytalny (eng. The Pension Institute) is an independent Think Tank that brings together experts dealing with the pension system, insurance and long-term savings.

www.instytutemerytalny.pl

This comparison has been prepared on the basis of the bill on employee capital plans published on February 15, 2018. It should be stipulated that in the course of social consultations and parliamentary works some of the rules of the PPK can and will be modified.

