



Tax measures for Russian IT companies

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On 1 January 2021 certain amendments to the Tax Code of the Russian Federation came into force. These are related to VAT, corporate profits tax and social security contribution and their purpose is to ensure development of the IT sector of the Russian economy by providing a number of tax benefits.

VAT

Following the amendments, sales (realization) of: (i) exclusive rights to computer programs and databases, and (ii) rights to use such programs and databases (including updates thereto and additional functionality) shall be exempt from VAT.

The rule expressly states that the exemption is applicable even in the event that said rights are provided by remote access via the Internet.

If compared with the previous regulation, the scope of the exemption was narrowed. Now it applies only if the relevant computer programs and databases are included in the unified register of Russian programs for computers and databases (the "Register").

The exemption cannot be applied in case the transferred rights provide for the possibility to:

- distribute advertising in the Internet and/or to obtain access to such information;
- post in the Internet offers on the purchase or sale of goods, works, services and property rights;
- search for information about potential buyers and sellers; and/or
- enter into transactions.

Taxpayers cannot refuse the exemption; however, they can avoid application of the exemption by not registering the



relevant computer program (databases) in the Register.

Corporate profits tax

The amendments also provide that Russian companies that:

- (i) carry out activities in the IT field;
- (ii) develop and implement computer programs and databases (on a physical media or in the form of an electronic document via communication channels, regardless of the type of contract);
- (iii) provide services (perform work) consisting in the development, adaptation, modification of computer programs and databases;
- (iv) install, test and support computer programs and databases;

can apply corporate profits tax at the reduced rate of 3% (including 3% paid to the Federal authorities and 0% paid to the regional authorities).

The above corporate profits tax rates can be applied provided that all the following requirements are fulfilled:

- 1) the company received the relevant document attesting state accreditation as company operating in the IT field;¹
- 2) The share of income deriving from carrying out the activities listed in the IT field shall be equal to at least 90% of the total income of the company.

The list of activities in the IT field, income deriving from which shall be taken into account for the purpose of calculation of the relevant share, includes: (a) realization of copies of the computer programs and databases developed by the company, (b) transfer of exclusive rights to computer programs and databases developed by the company, (c) provision of the rights to

use the above computer programs and databases on basis of license agreements (including, by provision of the remote access to computer programs, databases, updates and additional functionality via the Internet), (d) provision of services (works) for development, adaptations and modifications of computer programs and databases, and (e) installation, testing and maintenance of the computer programs and databases.

However, the above list does not include provision of rights to use computer programs and databases, if such rights provide for the possibility to:

- distribute advertising in the Internet and/or to obtain access to such information;
- post in the Internet offers on the purchase or sale of goods, works, services and property rights;
- search for information about potential buyers and sellers; and/or
- enter into transactions.

Income from such activities cannot be included in the share of income deriving from carrying out the activities listed in the IT field.

The amount of income shall be calculated according to the rules of tax accounting. It cannot include income deriving from: (a) positive exchange rate difference resulting from deviation of the exchange rate used for the sale (purchase) of foreign currency from the official exchange rate set by the Russian Central Bank, as well as positive exchange rate resulting from re-evaluation of property, claims and debts, (b) income of previous years revealed in the current year, (c) income from assignment of rights to claim debt

¹ Currently, state accreditation is performed in accordance with the Regulation about the state accreditation of companies carrying out activities in the field of information technology, approved by the Decree of the Government of the Russian Federation dated 6.11.2007 No. 758.

from carrying out activities in the IT field, (d) income in the form of various subsidies.

- 3) the average number of employees of the company for the reporting (tax) period shall be at least 7 persons.

In case the taxpayer does not fulfill at least one of the above conditions in the tax (reporting) period, it will lose the right to apply the reduced corporate profits tax rate starting from the beginning of the relevant tax period. In this case it must re-calculate and pay corporate profits tax applying the standard rate of 20%.

It is worth mentioning that reduced corporate profits tax rates (3% to federal authorities and 0% to regional authorities) are available not only to companies that develop software (as described above), but also to companies that develop certain hardware. Thus, taxpayers engaged in the design and development of products of electronic component base and electronic (radio-electronic) products can also enjoy reduced corporate profits tax rate on conditions that are similar to those for the previously mentioned category, namely:

- 1) The company must be registered in the Register of Russian companies that provide services (perform work) on design and development of products of electronic component base and electronic (radio-electronic) products².
- 2) the share of income deriving from the sale of services (works) for design and development of products of electronic component base and electronic (radio-electronic) products based on the results shall be at least 90% of the total income for tax (reporting) period;

- 3) the average number of employees shall be at least 7 persons.

Social security contributions

Social security contributions are calculated and paid by companies and individual entrepreneurs in respect of salaries and other remunerations paid to their employees and individuals performing work (services) for them.

Depending on the amount of salary and other remunerations paid during calendar year (as well as some other criteria), the total rate of social security contribution may as high as 30% of payroll fund. Russian companies that:

- (i) carry out activities in the IT field;
- (ii) develop and implement computer programs and databases (on a physical media or in the form of an electronic document via communication channels, regardless of the type of contract);
- (iii) provide services (perform work) consisting in the development, adaptation, modification of computer programs and databases;
- (iv) install, test and support computer programs and databases

can enjoy reduced rates of social security contributions.

Starting from 1 January 2021, they can apply the following rates of social contributions:

- for mandatory pension insurance: 6.0%;
- for mandatory social insurance in the event of temporary disability and in connection with maternity: 1.5%; and/or
- for mandatory social insurance in the event of temporary disability in respect of foreign citizens and stateless persons temporarily staying in Russia (except for highly qualified specialists): 1,5%;

² Currently, this register is maintained in accordance with the regulation approved by the Decree dated 31.12.2020 N 2392 of the Government of the Russian Federation.

- for mandatory medical insurance: 0,1%

Therefore, the total rate can be equal to 7.6% of the payroll fund.

As in case of corporate profits tax, the above social security rates can be applied if taxpayer meets certain criteria, namely:

- 1) the company received a document concerning state accreditation as company operating in the IT field;
- 2) the share of income deriving from carrying out the activities listed in the IT field shall be at least 90% of the total income of the company;
- 3) the average number of employees of the company for the reporting (tax) period shall be at least 7 persons.

Similarly to corporate profits tax, in case of social security contributions the list of activities in the IT field, income deriving from which shall be taken into account for calculation of the share, includes: (a) realization of copies of the computer programs and databases developed by the company, (b) transfer of exclusive rights to computer programs and databases developed by the company, (c) provision of the rights to use the above computer programs and databases on basis of license agreements (including, by provision of the remote access to computer programs, databases, updates and additional functionality via the Internet), (d) provision of services (works) for development, adaptations and modifications of computer programs and databases, and (e) installation, testing and maintenance of the computer programs and databases.

The list of activities also does not include provision of rights to use computer programs and databases, if such rights provide for the possibility to:

- distribute advertising in the Internet and/or to obtain access to such information;
- post in the Internet offers on the purchase or sale of goods, works, services and property rights;

- search for information about potential buyers and sellers, and/or
- enter into transactions.

Income from such activities cannot be included into the share of income deriving from carrying out listed activities in the IT field.

The amount of income shall be calculated in accordance with the tax accounting rules.

The share of income deriving from carrying out the listed activities in the IT field shall be calculated with application of the same adjustments (exceptions) as mentioned above for application of corporate profits tax reduced rate (e.g., it does not include income from: positive exchange rate differences, income of previous years revealed in the current year, etc.).

The same reduced social security contribution rates (i.e. mandatory pension insurance: 6.0%; mandatory social insurance in the event of temporary disability and in connection with maternity: 1.5%; mandatory social insurance in the event of temporary disability in respect of foreign citizens and stateless persons temporarily staying in Russia (except for highly qualified specialists): 1.5%; mandatory medical insurance: 0.1%) can also be applied by companies engaged in design and development of products of electronic component base and electronic and radio-electronic products.

In order to apply the reduced rates, the taxpayer must fulfill the following conditions:

- 1) the company must be registered in the Register of Russian companies that provide services (perform work) on the design and development of products of electronic component base and electronic (radio-electronic) products.



- 2) the share of income deriving from the sale of services (works) for the design and development of products of electronic component base and electronic (radio-electronic) products based shall be at least 90% of the total income of the company; and
- 3) the average number of employees shall be at least 7 persons.

The amount of income shall be calculated in accordance with the tax accounting rules.

The share of income deriving from carrying out services (works) for design and development of products of

electronic component base and electronic (radio-electronic) products must be calculated with application of the same adjustments (exceptions) as mentioned above for application of corporate profits tax reduced rate (e.g. it does not include income from positive exchange rate differences, income of previous years revealed in the current year, etc.).

Considering the overall changes, it seems that the Russian authorities have provided quite significant benefits to companies engaged in business in the IT field.



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