



## New accreditation rules for IT companies

### In brief

IT companies should have a respective license in order to apply available benefits. Previous accreditation procedure was in effect until 01 August 2022. In the recent two months, IT companies were unable to apply it. The Russian Government issued a resolution<sup>1</sup> establishing a new procedure for IT company accreditation that will come into effect starting October 2022.

The new rules are quite reasonable and feasible for the companies that operate in the IT sector. At the same time, the companies that in fact do not conduct IT operations but could be eligible for the accreditation under the obsolete procedure will be unable to obtain or retain their accreditation.

### In detail

#### Benefits granted through accreditation

Accredited companies and their employees may qualify for various benefits, such as deferred army service, military draft exemption and moratorium on certain types of audits.

In order to obtain these benefits (e.g. tax exemptions (0% CIT rate and 7.6% insurance contribution rate), preferential mortgage terms for staff and subsidised loans<sup>2</sup>), the company should additionally ensure that its industry-specific revenue exceeds 70%, as established by the Russian Tax Code.

#### Step 1. Obtaining the accreditation

Benefits available after the accreditation

- Deferred army service
- Military draft exemption
- Moratorium on certain types of audits.



Step 2. After obtaining the accreditation, industry-specific revenue threshold should exceed 70%

Available benefits include:

- Tax benefits (income tax – 0%, insurance contributions – 7.6%)
- Subsidised loans
- Preferential mortgage terms for staff etc.

#### New accreditation criteria

In the past, stating a correct code from the Russian National classifier of Economic Activities (OKVED) would suffice to obtain the accreditation. Starting March 2022, many new benefits have been introduced for IT companies in addition to tax exemptions, and the number of accredited companies grew substantially. Therefore, the accreditation procedure had to be adjusted to make sure that only IT companies obtain such benefits.

#### Previous accreditation criteria

- Industry specific OKVED code should feature as the core or a secondary activity.

#### New basic accreditation criteria

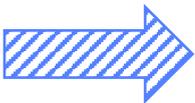
- **Industry specific OKVED code should feature as the core activity**
- Average salary of employees for the preceding quarter should not be lower than the average salary for Russia/respective region (if the company had been incorporated 3 months or

<sup>1</sup> Russian Government Resolution No. 1729 of 30 September 2022 "On Approving the Regulation on State Accreditation of Russian Entities Operating in the Sphere of Information Technologies" <http://publication.pravo.gov.ru/Document/View/0001202210010005>

<sup>2</sup> [https://digital.gov.ru/ru/activity/govservices/1/?utm\\_referrer=https%3a%2f%2fwww.google.com%2f](https://digital.gov.ru/ru/activity/govservices/1/?utm_referrer=https%3a%2f%2fwww.google.com%2f)

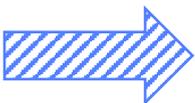
more before it obtained the accreditation)

- The share of IT operations income for the previous year exceeds 30% of the company's total income (not applicable if the company applies for the accreditation in the year of its establishment and its income is less than RUB 1 million)
- The company's website confirms that it actually engages in IT operations
- The company should make sure that the tax authorities file respective information to the Russian Ministry of Digital Development, Communications and Mass Media (please find the guidance at the Ministry's website<sup>3</sup>).



If the Company's income is below RUB 1 million, it shall be subject to a separate accreditation procedure (the so-termed "**start-up accreditation procedure**"). In particular, such company, instead of the **income share criterion**, should comply with the following conditions in addition to the basic terms:

- The company had been established less than 3 years before it filed the application
- The company is in the start-up list (provided there is such register for its region). Currently, Moscow maintains such register.



If a company **does not comply with the salary criterion**, it may still obtain the accreditation. In such case, the company should comply with the following conditions in addition to the basic criteria:

- The company holds a title to the software included in the Russian Software Register and
- The company received income from selling the title to the software during the year which preceded the year when the accreditation was applied for.

### Types of industry-specific (IT) activities

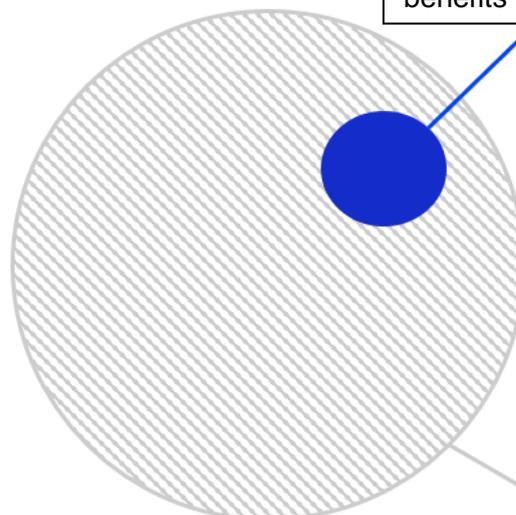
The list of activities that qualify for the accreditation<sup>4</sup> is much more extensive than the list of activities which grant tax exemptions.

As the conditions to apply tax benefits for income are stricter than those for obtaining the accreditation, the companies that apply tax benefits become exempt from annual and ad hoc audits to verify the accreditation.

### Companies not entitled to the accreditation

- Companies that do not comply

Types of activities that qualify for tax benefits



Types of activities to obtain the accreditation

<sup>3</sup> <https://digital.gov.ru/ru/activity/govservices/1/>

<sup>4</sup> Russian Ministry of Digital Development, Communications and Mass Media Order No. 766 "On the List of Activities in Information Technologies" <https://digital.gov.ru/ru/documents/8374/>

with the specified conditions

- Companies with at least 50% of direct or indirect government ownership
- State and municipal agencies, state-owned companies etc.
- Banks, non-banking credit institutions, insurance companies, communication service providers etc.
- Companies with arrears in taxes, levies, insurance contributions, penalties or fines over RUB 3 thousand
- Companies where the person acting as their sole executive body has non-expunged criminal offences (pending criminal convictions)
- Companies that did not permit the tax authorities to disclose information to the Russian Ministry of Digital Development, Communications and Mass Media.

The same grounds apply to revoke the application, except for state-owned companies that already have the accreditation. According to comments by the Russian Ministry of Digital Development, Communications and Mass Media, such state-owned companies shall retain their accreditation. During annual audits of such companies, no account will be taken of the indirect government ownership share, but they should have at least 50% of direct government ownership in order to retain their accreditation<sup>5</sup>.

### Do companies need to confirm the accreditation?

Companies should confirm their accreditation on an annual basis by June, 1st. In order to confirm the accreditation, the company should file an application stating that the income share criterion for the preceding year has been satisfied.

If an accredited company does not apply insurance contribution benefits, it will be subject to an audit once every year to check its compliance with the accreditation pre-requisites. Additionally, an ad hoc audit is possible. The logic behind this regulation infers that the conditions to apply income tax benefits are more stringent as compared to those for obtaining the accreditation. Therefore, the companies that comply with the conditions granting tax benefits for IT will automatically satisfy the accreditation pre-requisites.

### What you should be paying attention to

- The procedure for granting a consent to disclose tax details. If a company files an application to disclose information under a general procedure, such information shall come within the public domain.

According to the published guidelines on filing a consent to disclose tax details, the taxpayer should specify a certain code in the consent to make sure that the tax details are disclosed exclusively to the Russian Ministry of Digital Development, Communications and Mass Media: when you go to the “Part of the Details” section, you will see a list of information. You should select information items marked with 1400 and then specify 20009 code in the “Other” additional field<sup>6</sup>.

- Average monthly salary calculation. Please note that the average monthly salary calculation does not factor in employees engaged under civil law contracts. That said, the calculation includes part-timers working under employment agreements. So, a large number of part-timers may result in a low average monthly salary.
- Definition of 30% of income from IT operations. Income should be determined on the basis of financial statements and, among other things, quarterly accounting records. There are no exemptions for the types of income that may be used for the purposes of calculating the threshold. Therefore, there will be difference between approaches to calculating the 30% share (based on the book-keeping data) and 70% share (based on tax accounting data with certain types of income excluded from the calculation).

## The takeaway

In general, the new requirements should not cause difficulties for the companies that operate in the IT sector.

In view of the amendments, accredited IT companies should take the following steps:

1. **Make sure that the tax authorities forward information to the Russian Ministry of Digital Development, Communications and Mass Media by 31 October 2022 (otherwise, the accreditation may be revoked)**
2. Adjust proper registration of types of activities using the codes set by the Russian Ministry of Digital Development, Communications and Mass Media Order No. 766 “On the List of Activities in Information

<sup>5</sup> <https://t.me/mintsifry/1538>

<sup>6</sup> <https://digital.gov.ru/uploaded/files/instruktsiya-lk-yul-fns-1.pdf>

Technologies”

3. Make sure that average monthly salaries in 2022 are in line with average monthly salaries for Russia or the constituent region of the company's registration
4. Check whether the company website contains information on the IT operations performed.

We would be happy to answer any questions you may have.

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