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Newsletter

IT accreditation according to the new rules was launched today in Russia

Dear Ladies and Gentlemen,

Please be informed that today the online form for submission of applications for IT accreditation according to the new rules was launched.

As a reminder, on September 30, 2022, the Russian government approved the new rules and criteria for IT companies[1] accreditation.

Previously, in order to obtain the state accreditation, IT companies needed only to have the appropriate code of economic activities (OKVED) in the field of information technology registered at tax authorities, and to complete the application procedure via the e-government portal "Gosuslugi".

However, as of August 1, 2022, accreditation of IT companies under the old criteria has been suspended until the new IT accreditation rules are approved. From today, applications for IT accreditation may again be submitted on the Gosuslugi portal.

1. Benefits for accredited IT companies in 2022

State accreditation allows IT companies to receive appropriate state support. In particular, such support measures include:

- Tax benefits (0% profits tax rate, reduced rate of social security contributions, and others);
- Moratorium on scheduled state audits and inspection;
- Financial support measures (provision of grants, preferential loans);
- Employees support measures (allocation of funding to improve the living conditions of employees, deferment from military service) and other measures.

2. Deferment from the military service for IT professionals during mobilization

On September 21, 2022, a partial mobilization was declared in Russia.

Later on September 23, 2022, it was announced by the Russian Government and the Ministry of Digital Development of Communications and Mass Media ("Ministry of Digital Development") that IT, telecom and media professionals would be entitled to deferment from the partial mobilization.

According to the clarifications received from the regulators, the right to a deferment can be granted to employees of particular economic sectors, including employees of accredited IT companies involved in the development, implementation, maintenance, and operation of IT solutions (software, and hardware and software systems) or in ensuring the functioning of information infrastructure, who have the appropriate higher education and work normal or irregular working hours.

A recommended list of 195 professions in the IT and telecom sectors eligible for a deferment from the military service during mobilization is now published. An application for deferment for IT professionals can already be submitted via the Gosuslugi portal.

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[1] *Decree of the Government of the Russian Federation of 30.09.2022 No. 1729 on Approval of the Regulation on State Accreditation of Russian Organisations Conducting Activities in the Field of Information Technologies (*"**Decree N 1729**"*).*

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3. New criteria for accreditation of IT companies in Russia and criteria for refusal

The updated procedure for IT accreditation includes two possible schemes for obtaining such accreditation by companies, as well as criteria for refusal of IT accreditation:

a. General criteria for IT accreditation

General accreditation procedure suits larger IT companies that are able to maintain average monthly salaries for their employees and a minimum share of income from IT activities [2].	**Criteria:** i. Using an IT OKVED (economic activity) code as the main one[3]; ii. The average salary of the company's employees should be the same or higher than the average for the country *or* region; iii. The share of income from IT activities should constitute at least 30% of the gross income of the company; iv. The company's website should contain information about activities in the IT field [4]; v. Consent for disclosure of tax information to the tax authority; vi. The company does not meet the criteria for refusal of IT accreditation.

b. Special criteria for IT accreditation

The special accreditation procedure suits smaller IT companies that are unwilling or unable to meet certain general criteria for IT accreditation.	**Criteria for IT companies that do not comply with the average monthly salary requirement:** The general criteria for IT accreditation (except criterion ii) from section a. above and the following *additional special criteria* apply: i. The company holds rights to software or databases included in the unified register of Russian software and databases; ii. The company generated income from exclusive rights to such software and (or) databases during the year preceding the year of application for IT accreditation. **Criteria for IT companies that cannot meet the minimum income requirement from IT activities:** The general criteria for IT accreditation (except criterion iii) from section a. above and the following additional special criteria apply: i. The company was incorporated less than

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[2] *According to information provided by the Ministry of the Digital Development, state accreditation can also be granted to separately incorporated IT subsidiaries if the minimum revenue share of the main parent company in the IT sector does not meet the criteria set for IT accreditation.*

[3] *The updated list of OKVED codes for the purposes of IT accreditation is provided in Decree No. 1729. Further expansion of this list by the regulator may be expected soon.*

[4] *Decree No. 1729 specifies exactly what information should be published on the official website of an IT company.*

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3 years before the date of application for IT accreditation;

ii. The company's income from the date of incorporation does not exceed 1,000,000 RUB (approx. 16,000 USD or 16,500 EUR);

iii. The company is included in the regional start-up register[5].

Criteria for companies whose main activity according to OKVED corresponds to codes 58, 60.10, 60.20, 63.91, 73.20.1:

The general criteria for IT accreditation (except criterion ii) from section a. above apply, excluding the requirement of minimum income from IT activities.

c. Criteria for refusal of IT accreditation

i. The company does not meet the general or special criteria for IT accreditation;

ii. Direct or indirect shareholding of the Russian Federation or a constituent entity of the Russian Federation in the company is 50% or more[6];

iii. The company is a state or municipal institution, state or municipal unitary enterprise, state company, state corporation, or a public company[7].

iv. The company is:

— a bank;

— a non-banking credit institution;

— a non-banking financial institution;

— an insurance company;

— an operator with a major position in the public telecommunications network;

— a public joint-stock company in respect of which the positions of the shareholder - the Russian Federation - are determined in accordance with Russian Government Decree No. 91-p of January 23, 2003;

v. The company has arrears in taxes, levies, insurance contributions, penalties and fines in excess of 3,000 RUB (approx. 47 USD or 49 EUR);

vi. The company's CEO has an unexpunged or outstanding criminal record;

vii. The company did not provide its consent to disclosure of information constituting bank secrecy.

Please note that already accredited IT companies are not required to submit a new application for state accreditation, but they must meet the new criteria for such accreditation described above.

In addition, accredited IT companies are required to undergo an annual confirmation of eligibility for state accreditation, in the course of which IT companies will be required to submit information on their IT revenues by the following deadlines:

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[5] This criterion does not apply if there is no corresponding startup register in the constituent entity of the Russian Federation where the IT company is registered. As of the date of this information letter, such register is functioning only in Moscow.
[6] Excluding participation through treasury, budgetary, and autonomous institutions, as well as autonomous non-commercial organisations established by the Russian Federation or a constituent entity of the Russian Federation and operating in the field of information technology.
[7] Treasury, budgetary, and autonomous institutions may obtain IT accreditation if they meet the conditions set out in Decree N 1729.

- By June 1, the IT company should submit documents confirming its compliance with the criteria for IT accreditation;
- By July 1, the regulator should carry out verification of compliance with the criteria for IT accreditation.

Non-compliance with the new criteria in the course of the annual confirmation may entail withdrawal of the IT company's accreditation.

The Ministry of the Digital Development is also authorised to carry out unplanned audits of compliance with these criteria.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our Telecommunications, Media and Technology Industry, please let us know in reply to this email. We will be glad to provide you with our materials.

Note: Please be aware that all information provided in this letter was taken from open sources. Neither ALRUD Law Firm, nor the author of this letter, bear any liability for consequences of any decisions made in reliance upon this information.

If you have any questions, please, do not hesitate to contact ALRUD partner

Sincerely,
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