



ADMINISTRATIVE LIABILITY TO INCREASE CONSIDERABLY FOR GROSS VIOLATIONS OF ACCOUNTING REQUIREMENTS

FAO directors and chief accountants of companies and persons responsible for bookkeeping.

Pepeliaev Group advises that the Russian President has signed Federal Law No. 77-FZ¹, which considerably amends article 15.11 of the Russian Code of Administrative Offences regarding the liability for gross violations of accounting requirements, including requirements for financial statements. The Law extends the limitation period for holding a person liable for the above offences under administrative legislation.

The main developments of the Law include the following:

1. **Extension of the list of actions treated as a gross violation of accounting requirements.** Now, such actions also include:
 - booking a business operation that did not take place, or a fictitious or sham accounting item in accounting ledgers;
 - keeping accounts outside the applicable accounting ledgers;
 - compiling financial statements not based on the data in the accounting ledgers;
 - lacking initial source and accounting documents during the respective statutory period for keeping such documents.



The current Federal Law “On accounting” provides for a prohibition on the above actions, and the obligation to keep the documents; however, it does not provide for any sanctions for violations². In practical terms, the above factor nullified the existing prohibitions and statutory requirements, which the new Law is intended to change.

2. **Introduction of greater liability for a repeated administrative offence**, as provided for by article 15.11 of the Russian Tax Code.

On top of the general increase of the administrative fine up to RUB 5,000-10,000, the Law provides for an increased liability for a repeated offence, as stipulated by the article at hand. The repeated offence may not only entail a higher fine of RUB 10,000 to RUB 20,000 for an officer of the company, but also disqualification of the person for a period from one to two years.

¹ Federal law No. 77-FZ “On amending the Russian Code of Administrative Offences” dated 30 March 2016.

² If the violations committed did not result in any discrepancies in the accounts and/or understating taxes and levies accrued.

³ In the previous version of the Code of Administrative Offences the fine was RUB 2,000 to RUB 3,000.



The intention behind introducing such an administrative sanction is obviously to increase the personal liability of persons responsible for arranging and maintaining the company's accounts, where such liable, in the opinion of the legislature, will contribute to reducing inaccurate accounting practices. From practical perspective, tax authorities may apply the above legal rule⁴ as yet another effective tool to combat fly-by-night companies, where the responsibility for combating such companies is suggested to be vested in the chief accountant (accounting department) under the threat of disqualification.

3. **Extension of the limitation period for administrative liability** up to two years from the date when the administrative offence was committed.



The extension of limitation period is due to the regularity of field tax audits, during which the administrative offences stipulated by article 15.11 of the Code of Administrative Offences are predominantly identified. Since the offence in question is not continuing, in practice the period during which an executive may be held liable often expires before the violation of accounting requirements is identified.

What to think about and what to do

The new regulations will require accounting departments:

- to enhance internal controls over the procedure for selecting a contracting party so as to mitigate the risks to the extent possible of contractual relationships with fly-by-night companies and accounting for transactions, assets and obligations under transactions with such contracting parties;
- to engage the relevant specialist services and company experts to confirm the composition and scope of work performed (services provided) before such work (services) is entered into accounting records;
- to review the documents to make sure that such documents are available during the period for keeping same; to restore missing copies where possible; and to comply with the periods for keeping documents, as established by the Law on archiving.
- In addition, an accountant must ensure that accounting ledgers correspond to accounting figures, either using the company's own resources or by engaging outsource experts.

Help from your adviser

Based on our extensive advisory experience, Pepeliaev Group lawyers are ready to provide you with required support, including

- assessing the current procedure for selecting a contracting party and confirming that it operates fairly; issuing recommendations to improve the procedure;
- developing a risk management system to establish the procedures enabling it to rule out the possibility of non-existing assets and obligations being accounted for based on inaccurate documents;
- reviewing source documents, accounting ledgers and financial statements as to the availability of documents and complying with the periods for keeping same.

⁴ The officials of tax bodies are authorised to identify violations, which are subject to administrative liability under article 15.11 of the Code of Administrative Offences.

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