

Amendments to the Russian Tax Code: Applying Investment Tax Incentives

FAO Companies' Chief Financial Officers, Tax Managers, Accountants, and In-House Lawyers

A new mechanism for monitoring the application of investment tax incentives is being introduced. The amendments are set out in **Draft Law No. 960752-8, which provides for changes to Parts One and Two of the Russian Tax Code (the "Tax Code"). The amendments will take effect on 1 January 2026 and will apply to entities that obtain the status of a resident (participant) after that date. The draft law aims to increase investment activity and to make tax preferences within preferential regimes more effective.**

Essence of the amendments: new article 56.1 of the Tax Code

From 1 January 2026, the Tax Code will be supplemented by article 56.1 "Specific aspects of applying reduced tax rates, tax incentives, and reduced social insurance contribution rates." It establishes uniform requirements for applying all types of tax preferences granted to residents of advanced development territories ("ADTs", the Free Port of Vladivostok, the Arctic Zone of the Russian Federation, special economic zones ("SEZs), the SEZs in Crimea and Sevastopol, and the SEZs in the Kaliningrad and Magadan Regions.

Previously, the right to tax incentives arose automatically when resident status was obtained. The new article 56.1 introduces a mechanism for eligibility for tax incentives to be confirmed annually. This affects how the following are applied: reduced profit tax rates (0% and 12%), exemptions from property tax, land tax, mineral extraction tax, and reduced social insurance contribution rates (7.6% instead of 30%).

Please note: the new article applies only to taxpayers who obtain the status of a resident after 1 January 2026. Organisations with the status obtained before that date will continue to apply incentives under the previous procedure.

Three mandatory conditions for maintaining eligibility for tax incentives

To retain the right to tax preferences, organisations must simultaneously meet three requirements, which are assessed annually as at 31 December.

1. Reporting discipline

An organisation must not be held liable twice within two consecutive calendar years for not submitting its financial statements or for submitting them late. If the organisation commits two such violations, e.g. in 2026 and 2027, it will lose the right to all tax benefits in 2028.

2. Meeting obligations under the investment agreement

The organisation must comply with the obligations set out in the agreement concerning the conduct of its operations. A key feature is that the list of the indicators being monitored and the permissible deviations will be determined by a law of the constituent entity of the Russian Federation, which must be adopted no later than 1 December 2026.

This creates the greatest legal uncertainty. Until the regional laws are enacted, it is impossible to determine which indicators (investment volume, number of jobs, production volume) will be monitored and what deviations will be permissible (10%, 20%, or 30%).

3. Investment activity

The ratio of capital investments and R&D expenses to the amount of tax preferences received (the latter referred to as “TV_{max}”) must be ≥ 1 . Constituent entities of the Russian Federation may set a different figure, including zero.

Formula: (capital investments + R&D expenses) / TV_{max} ≥ 1

Failure to meet even one of these requirements leads to all tax incentives being lost for the entire calendar year following the year of the violation. The right is restored once the violations have been remedied.

Pepeliaev's Group comment

Delegating authority to the regional level for determining assessment criteria creates a risk of taxpayers not having equal legal positions in different preferential zones. We recommend that investors planning to obtain resident status in 2026 refrain from taking final decisions until the regional laws are adopted.

The TV_{max} indicator and powers of the constituent entities of the Russian Federation

TV_{max} is the total amount of tax preferences that an organisation receives under preferential regimes. It represents the sum of taxes and contributions that the organisation has saved owing to its status as a resident, calculated cumulatively from when the incentives started to be applied.

For ADTs (advanced development territories) and the Free Port of Vladivostok: TV_{max} = (profit tax at standard rates – profit tax at reduced rates).

For SEZs (special economic zones): $TV_{\max} = (\text{savings on profit tax}) + (\text{savings on property tax}) + (\text{savings on land tax})$.

For the SEZ in Crimea: $TV_{\max}$ also includes savings on insurance contributions.

Example: A resident of an ADT generated a profit of RUB 300 million for the years 2026–2028. It paid profit tax at a 0% rate – RUB 0. At the standard rate of 20%, it would have paid RUB 60 million. Thus, $TV_{\max} = \text{RUB } 60 \text{ million}$. To maintain eligibility for tax incentives, investments of at least RUB 60 million are needed.

Investments that are taken into account:

- expenses on creating fixed assets;
- R&D expenditure.

Investments that are not taken into account:

- passenger cars;
- purchasing fixed assets from related parties;
- expenses financed by subsidies from the state budget.

Powers of constituent entities of the Russian Federation

Constituent entities of the Russian Federation can substantially modify the requirements.

Regarding the indicators under the agreement: the region determines which indicators will be monitored (two or three key ones or all of them) and what deviations are acceptable (5–10% or 20–30%).

As regards the ratio of investments to incentives, the region may establish:

- **A coefficient < 1** (for example, 0.5 – it is sufficient to invest 50% of the incentives);
- **A zero coefficient** (complete cancellation of investment control);
- **A coefficient > 1** (for example, 1.5 – investments must exceed the incentives by one and a half times).

This creates “regulatory competition” among regions: those with less harsh requirements will become more attractive to investors.

Pepeliaev's Group comment

There is a risk of both a “race to the bottom” (where regions set zero requirements, rendering the mechanism ineffective) and overly harsh regional requirements, which would make preferential regimes unattractive.

New reporting and the mechanism for the right to incentives to be lost

Obligation to submit a calculation

Taxpayers are required to submit to the tax authority, on an annual basis no later than 25 March, a calculation of the volume of capital investments, R&D expenses, and amounts of $TV_{\max}$ for each type of tax. If the calculation is not submitted, this may in itself lead to entitlement to the incentives being lost.

Mechanism for the right to be lost

If a taxpayer fails to meet at least one of the requirements, it loses the right to apply all tax incentives in the following calendar year. This means:

- profit tax at the rate of 20% instead of 0% or 12%;
- property tax at a rate of up to 2.2%;
- land tax at a rate of up to 1.5%;
- mineral extraction tax at the full rate (for the SEZ in Magadan Region and for ADTs);
- social insurance contributions at a rate of 30% instead of 7.6%, retrospectively from the beginning of the year.

The right is reinstated in subsequent periods once the violations have been remedied.

Transition period

The requirements of article 56.1 of the Tax Code do not apply for two years from when the status is obtained:

Year of obtaining status	Benefit period	First check	Possible loss of benefits
2026	2026–2027	31.12.2027	2028
2027	2027–2028	31.12.2028	2029
2028	2028–2029	31.12.2029	2030

The two-year moratorium takes into account the time needed to launch production. However, tax benefits are still received during this period, and the amounts count for $TV_{\max}$.

What to think about and what to do

The introduction of article 56.1 of the Tax Code significantly changes the rules for future residents. The right to benefits becomes conditional and requires annual confirmation.

Companies planning to obtain the status of a resident in 2026 or later are advised to:

1. Revise financial models. Include scenarios with taxes paid at standard rates. For many projects, the additional social insurance contributions resulting from an increase in the rate from 7.6% to 30% per year may amount to sums that are comparable to annual profits.

2. Consider whether to obtain the status of a resident before 1 January 2026 to avoid the new requirements. However, companies should not rush this at the expense of properly preparing for a project.

3. Postpone a decision until regional laws have been adopted (by 1 December 2026). Only after this can the risks be properly assessed. Making decisions amid uncertain conditions is extremely risky.

4. Begin negotiations with regional authorities regarding the parameters of forthcoming regional laws.

5. Develop an accounting system that separately records capital investments, expenses on R&D, and tax benefits.

6. Implement control over reporting discipline. Two violations within two years = all benefits being lost for one year.

7. Structure investments properly: minimise transactions with related parties, do not purchase passenger cars, and note that subsidies are not regarded as investments.

Companies that already have resident status should:

- confirm the date when the status was obtained – the new requirements do not extend to you;
- consider expanding operations through existing entities rather than creating new ones.

All companies should:

- analyse their investment agreements and assess whether the targets are feasible;
- initiate having agreements amended to establish more realistic performance indicators;

- create financial reserves in case benefits are temporarily lost;
- monitor how the regional laws are developed and take part in public discussions.

Given the individual specifics of each company, we recommend conducting a detailed analysis of how the changes affect your particular situation.

Help from your adviser

The lawyers from Pepeliaev Group have extensive experience in advising on how tax benefits are applied within special tax regimes.

We are ready to advise you on issues relating to the new requirements of article 56.1 of the Tax Code, including: analysing the impact of the draft law on the financial models of projects; developing methodologies for calculating indicators; assessing the risks of the right to benefits being lost; preparing amendments to investment agreements; interacting with regional authorities when the regional laws are being drawn up; representing clients before management companies and tax authorities; and structuring new projects in line with the requirements of article 56.1 of the Tax Code.

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