

Large-scale amendments are planned to the regulation of the IT industry

FAO the owners, executives, and employees of IT companies

Pepeliaev Group advises that significant amendments have been prepared to legislation applicable to the IT industry. The changes will affect the areas of tax, antitrust, and sectoral regulation.

In terms of tax regulation, a draft law (the "Draft Law") introducing amendments to the Russian Tax Code¹ (the "Tax Code") has been submitted to the State Duma, the lower chamber of Russia's Parliament, affecting the taxation of IT companies' activities. It is planned to abolish the VAT exemption when rights to software are transferred, to increase the rate of insurance contributions, and to make other significant changes.

In terms of antitrust regulation, the Federal Antimonopoly Service of Russia (the "FAS") has prepared a draft law lifting "immunities" from intellectual property right holders².

In terms of sectoral regulation, in July, a law regulating the activities of data processing centres³ and a Law establishing the status of a significant software developer, the list of trusted software, the list of software for one's own needs, and other changes, were adopted⁴. For the purpose of implementing these innovations, the Russian Government has developed draft resolutions.

Most of the changes will come into force within the next six months, which leaves companies little time to adapt. Below is a detailed analysis of the amendments.

To make it easier to read, we offer the content of this alert:

1. Changes in tax regulation of the IT industry

¹ Draft Law No. 1026190-8 "On Amending Parts One and Two of the Tax Code of the Russian Federation and Certain Legislative Instruments of the Russian Federation."

² Draft Federal Law "On Amending the Federal Law 'On Protecting Competition'" (Draft ID: 159126).

³ Federal Law No. 244-FZ dated 23 July 2025 "On Amending Articles 2 and 6 of the Federal Law 'On Communications' and Certain Legislative Instruments of the Russian Federation."

⁴ Federal Law No. 325-FZ dated 31 July 2025 "On Amending Certain Legislative Instruments of the Russian Federation" ("Law No. 325-FZ").

- 1.1. Abolition of the VAT exemption when rights are transferred to software included in the register of Russian software
 - 1.2. Increase of the social insurance contribution rate up to 15%
 - 1.3. Resale of software excludes the possibility of applying a coefficient of 2 when accounting for expenses on acquiring such software
 - 1.4. Prohibition on the application of IT benefits in relation to profit tax and insurance contributions by participants of the Skolkovo project
 - 1.5. Possibility of applying the reduced social insurance contribution rate from the month when all conditions for applying the benefit have been met
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 - 3.4. Operator of the register of Russian software
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 - 3.7. List of trusted software
 - 3.8. Register of data centres

1. Changes in tax regulation of the IT industry

It is planned that the amendments to the Tax Code that have been developed will enter into force after one month expires from the date when the adopted law is officially published.

1.1. Abolition of the VAT exemption when rights are transferred to software included in the register of Russian software

The Draft Law proposes to start levying VAT at the rate of 22% on the transfer of exclusive rights to software that is included in the Unified Register of Russian programs for electronic computers and databases (the "register of Russian software", the "register").

Pepeliaev Group's Comment

As a result of the change in the procedure for levying VAT on a transfer of rights to software, the question arises of how the tax burden is allocated between the parties under already concluded contracts. From an economic point of view, VAT is an indirect tax, meaning that it should be passed on to the end consumer – in this case, to the licensee – by including it in the licence price. However, the obligation to calculate and pay VAT to the state budget is imposed on the seller, i.e., in this case, on the licensor. In this regard, a natural question arises as to who should actually pay the VAT (if the exemption is nevertheless abolished): the seller, by singling out VAT within the agreed price, or the buyer, if the seller issues an invoice with the amount of VAT added to the agreed contract price.

Judicial practice on similar disputes is extremely inconsistent: some courts take the side of sellers who unilaterally increase the price, while others side with buyers, insisting that the price is invariable (see cases No. A43-13048/2025, A59-1015/2025, A27-3110/2025 and A50-7948/25).

In this regard, special significance is attached to a case pending before the Constitutional Court of the Russian Federation, namely case No. A40-236292/2022 (Sitronics IT vs. VTB), which will become a precedent on the issue of whether a unilateral change of contract price is permissible in connection with changes in tax legislation. The outcome of this dispute may significantly affect the emerging judicial practice and determine the fate of transactions for the sale of software that were concluded before 1 January 2026.

1.2. Increase of the social insurance contribution rate up to 15%

The Draft Law proposes to increase the rate of social insurance contributions from 7.6% to 15% within the framework of the Unified Maximum Base (UMB) (for 2025, the UMB amounts to 2.76 million roubles⁵, and for 2026 it is planned to be set at 2.97 million roubles⁶).

If an employee's annual salary exceeds the UMB, then the rate of social insurance contributions on the amount exceeding the UMB will be 7.6%.

⁵ The Russian Government's Resolution No. 1457 dated 31 October 2024 "On the Unified Maximum Base for Calculating Social Insurance Contributions from 1 January 2025."

⁶ The Russian Government's Draft Resolution "On the Unified Maximum Base for Calculating Social Insurance Contributions from 1 January 2026" (Draft ID: 160678).

At the same time, for companies engaged in the radio-electronic industry, a reduced social insurance contribution rate of 7.6% within the UMB remains, and a rate of 0% applies on the amount exceeding it.

1.3. Resale of software excludes the possibility of applying a coefficient of 2 when accounting for expenses on acquiring it

In the new version of article 264(1)(26) of the Tax Code, a condition is added for applying a coefficient of 2 when accounting for expenses on software: the contract under which the software was acquired must not provide that third parties have a right to transfer this software.

As stated in the Explanatory Note to the Draft Law⁷, the purpose of the amendment is to eliminate the multiple use of a coefficient of 2 within one chain of counterparties.

1.4. Prohibition on participants in the Skolkovo project applying IT benefits on profit tax and social insurance contributions

According to the current wording of the Tax Code, participants in the Skolkovo project are not limited in applying IT benefits in relation to profit tax and social insurance contributions. Thus, they currently have a choice: either to apply the benefits they are entitled to by virtue of their status, or to apply the reduced profit tax rate and social insurance contribution rate which the Tax Code stipulates for accredited IT companies.

According to the prepared amendments, participants in the Skolkovo project will be deprived of the right to choose benefits and will be able to apply only those benefits that are granted to them by virtue of their status.

1.5. Possibility of applying the reduced social insurance contribution rate from the month when all conditions for applying the benefit have been met

The Draft Law proposes to establish that IT companies have the right to apply the benefit in relation to social insurance contributions from the month when all conditions for applying it have been fulfilled (i.e., IT accreditation, a 70% share of income from IT activities, no government participatory interest of 50% or more, and no reorganisation after 1 July 2022). A similar provision is introduced for companies in the radio-electronic industry.

This position has been repeatedly reflected in the letters of the Russian Ministry⁸ of Finance and will now be enshrined in legislation.

At the same time, the question remains unresolved as to from which tax period the reduced profit tax rate should apply if one of the conditions for applying it was fulfilled in the middle of the year: from the period within which all

⁷ Explanatory Note to Draft Law No. 1026190-8.

⁸ Letters No. 03-15-05/52390 and No. 03-15-05/46674 of the Russian Ministry of Finance dated, respectively, 28 May 2025 and 13 May 2025.

conditions were fulfilled, or from the following period. The Russian Ministry of Finance believes that it should apply from the following period⁹. In our opinion, this position is rather debatable.

2. Changes in antitrust regulation of the IT industry

2.1. Limitation of antitrust immunity of right holders

According to the current legislation, holders of intellectual property results and means of individualisation possess so-called antitrust immunities: the prohibition on the abuse of a dominant position does not extend to actions relating to the exercise of exclusive rights; and the prohibition on anticompetitive agreements does not apply to agreements concerning the transfer of rights to intellectual property items.

The Federal Antimonopoly Service ("FAS") of Russia has, in turn, prepared a draft law extending the prohibition on the abuse of a dominant position, and to the prohibition on concluding anticompetitive agreements to right holders of intellectual property results (including software).

The FAS justifies the need for such changes by the fact that right holders, making use of state protection from unfair competition, commit violations of antitrust legislation and remain unpunished¹⁰.

If the amendments are adopted, they are planned to enter into force after nine months expire from the date of when they are officially published.

3. Changes in IT regulation

3.1. Status of a significant developer of Russian software

For the purpose of implementing particularly important projects, Law No. 325-FZ introduces the status of significant developers, who will participate in import substitution and in the development of Russian software.

The Russian Ministry of Digital Development, Communications and the Mass Media is entrusted with maintaining the list of significant developers of Russian software.

The status of a significant developer may be obtained by:

- a Russian business entity that is under the control of the Russian Federation, a constituent entity of the Russian Federation, a municipality, or a Russian citizen; and

⁹ Letter No. 03-03-06/1/68980 of the Russian Ministry of Finance dated 16 July 2025.

¹⁰ Explanatory Note to the Draft Law "On Amending the Federal Law 'On Protecting Competition'" (Draft ID: 159126).

- a company that has concluded, for the purpose of implementing particularly important projects, an agreement with the Russian Government for the development (modernisation) of software at its own expense.

The procedure and conditions for concluding such an agreement will be approved by the Russian Government.

The amendments will enter into force on 1 March 2026.

3.2. Procedure for concluding agreements for the development and/or modernisation of software

A draft Resolution of the Russian Government has been published regulating the procedure for concluding agreements for the the development and/or modernisation of software in order to implement particularly important projects between significant developers and the Russian Government (in this section, the "Draft Government Resolution")¹¹.

The agreements will be concluded on behalf of the Russian Government through an authorised federal body, further to an application from the developer. After the application is submitted, the Russian Government will have 30 working days to conduct an expert review of whether the requirements have been met and to make a decision on whether to conclude an agreement.

Additional requirements for significant software developers, established in the Draft Government Resolution and not specified in Law No. 325-FZ are that:

- the developer holds the exclusive right to the software;
- there are no bankruptcy, reorganisation or liquidation procedures;
- there are no arrears in relation to taxes and other mandatory payments to the state budget;
- foreign persons registered in offshore zones do not own any share exceeding 25%;
- the developer is not a foreign legal entity, which includes not being registered in offshore zones;
- the developer is not recognised as a foreign agent, and is not involved in extremist activities;
- the developer is not a person associated with the proliferation of weapons of mass destruction, or with terrorist organisations or terrorists.

¹¹ The Russian Government's Draft Resolution "On Approving the Procedure for Concluding Agreements on the Development and/or Modernisation of Software for Electronic Computing Machines and Databases for the Purpose of the Import Substitution of Software for Implementing Particularly Important Projects" (Draft ID: 160480).

If an agreement is concluded, the developer undertakes not to transfer exclusive rights to software in favour of foreign persons, as well as Russian persons with more than a 25% foreign participatory interest.

The agreements will be concluded in a standard form attached to the Draft Government Resolution for a term of not less than five years.

Since the Draft Government Resolution does not specify a date of entry into force, the document will, if adopted, take effect 10 days after it is officially published.

3.3. New approach to determining control over an organisation that is a right holder

Article 12.1 of the Law on Information¹² establishes the conditions for software to be included in the register of Russian software. According to article 12.1(5)(1)(c) of the said Law, for software to be included in the register, the proportion of the direct (indirect) participatory interest of Russian persons in the right-holding organisation must be more than 50%.

Law No. 325-FZ proposes to change the criterion for classifying software as controlled by Russian persons. Instead of assessing the ownership share, it is planned to use the concept of “control”, meaning the ability to directly or indirectly dispose of more than 50% of the votes at the general meeting of the right-holding organisation.

The amendments will enter into force on 1 March 2026.

A similar approach will be applied when assessing: significant developers of Russian software, the inclusion of software in the register of Russian software, the list of trusted software, the list of software for one’s own needs, and the register of data centres.

Pepeliaev Group’s Comment

Defining controlling persons through the notion of “control” and the number of votes at the general meeting is a more accurate and appropriate method for identifying persons capable of influencing the right holder. Such an approach helps to take into account all corporate law mechanisms used to avoid the traditional “one share = one vote” principle.

3.4. Operator of the register of Russian software

¹² Federal Law No. 149-FZ dated 27 July 2006 “On Information, Information Technologies, and Protecting Information.”

In accordance with the current version of article 12.1(3) of the Law on Information, the Russian Ministry of Digital Development, Communications and the Mass Media has the right to engage an operator to form and maintain the register of Russian software.

According to the new version of article 12.1(3) of the Law on Information, the Russian Government, further to a proposal of the Ministry of Digital Development, will designate a non-profit organisation that will perform the functions of the operator of the register of Russian software. The founder's powers of such a non-profit organisation will be exercised by the Ministry of Digital Development.

The amendments will enter into force on 1 March 2026.

3.5. Changes in the rules for maintaining the register of Russian software

The Russian Ministry of Digital Development has presented a draft resolution amending the Rules for the formation of the register of Russian software and other regulatory instruments of the Russian Government (in this section, the "Draft Government Resolution")¹³. The document develops the provisions of the previous draft for the reform of the register¹⁴ (for more details, see our alert), while introducing a number of new regulatory approaches for the industry.

1. Abolition of additional requirements for software in the register

An important new development is the abolition of the Government's Resolution No. 325 dated 23 March 2017, which established additional requirements for office software and software maintenance to be included in the register.

Under the new approach, office software and technical maintenance software are exempted from compliance with additional requirements for inclusion in the register. Additional requirements for office, system and industrial software, as well as information security tools, will apply only when the status of "trusted software" is assigned (see the section "List of trusted software" below).

2. Software compatibility with operating systems

The Draft Government Resolution introduces a definition of software compatibility with an operating system ("OS") as "the capability of the software to perform its functions under the control of a general-purpose

¹³ The Russian Government's Draft Resolution "On Amending Certain Instruments of the Government of the Russian Federation" (Draft ID: 160471).

¹⁴ The Russian Government's Draft Resolution "On Amending Certain Instruments of the Government of the Russian Federation" (Draft ID: 153100).

operating system when used jointly with technical means, without disrupting their proper functioning.”

Right holders of software are obliged to ensure compatibility with only those operating systems that are included in the list of trusted software.

3. Phased implementation of compatibility requirements

As mentioned above, the right holder of software included in the register is obliged to ensure compatibility with OSs from the list of trusted software.

The compatibility requirement will be introduced in stages, depending on the class of software:

- from 1 June 2026 – for visualisation tools and office software;
- from 1 January 2027 – for tools ensuring cloud and distributed computing, data storage, server software, database management systems, and information security tools;
- from 1 June 2027 – for application and industry-specific software, and tools for processing and visualising data arrays;
- from 1 January 2028 – for industrial software and tools for managing an organisation’s processes.

4. A special mark will appear in the register of Russian software indicating that software complies with the criteria of trusted software.

5. Change in the approach to determining the share of the participatory interest of Russian persons in the right-holding organisation

Currently, the share of a Russian participatory interest is determined through direct (indirect) ownership in the capital. The Draft Government Resolution proposes to determine the origin of a right holder of software through the number of votes at the general meeting.

6. In public procurement, Russian software without trusted status will be equated to foreign software if an alternative bid is submitted with Russian software marked as complying with the requirements for trusted software.

The entry into force of the Draft Government Resolution, if adopted, is planned for 1 March 2026.

3.6. List of software for own needs

Law No. 325-FZ introduces a list of software developed and used for one’s own needs. The Russian Ministry of Digital Development is entrusted with maintaining this list.

The conditions for being included in the list are:

- the exclusive right to the software belongs to the Russian Federation, a constituent entity of the Russian Federation, a municipal entity, an individual who is a citizen of the Russian Federation without foreign citizenship, or a Russian organisation controlled by Russian persons;
- information about the software does not constitute a state secret.

Software included in the list of software for one's own needs will be allowed to be used at critical infrastructure facilities.

The Russian Government has prepared a draft resolution regulating the rules for forming and maintaining the list (in this section, the "Draft Government Resolution")¹⁵. The Draft Government Resolution establishes additional conditions for including software in the list, and in many respects these coincide with the conditions for being included in the register of Russian software. Nevertheless, several key differences can be highlighted from the conditions for being included in the register of Russian software:

- no payments are made under licence or other agreements that relate to the development of software in favour of foreign persons, Russian organisations controlled by them, or persons outside the right holder's group of companies;
- the right holder uses the software for its own needs or grants rights exclusively within its group of persons;
- there is no software with similar functionality in the register of Russian software;
- the software is compatible with a Russian operating system.

Inclusion in the list will be carried out further to a decision of the Presidium of the Government Commission for Digital Development, after an expert review conducted by the Expert Council under the Ministry of Digital Development. Information from the list will be closed to public access. The right holder, government authorities, and other persons will be able to obtain it via an extract.

The entry into force of the Draft Government Resolution is planned for 1 March 2026.

¹⁵ The Russian Government's Draft Resolution "On Approving the Rules for Forming and Maintaining the List of Russian Software for Electronic Computing Machines and Databases Developed and Used by Russian Legal Entities for Their Own Needs" (Draft ID: 160484).

Pepeliaev Group's Comment

The condition regarding the absence of software in the register of Russian software that is "similar in functionality" contains legal uncertainty. The Draft Government Resolution does not establish criteria for determining the functional similarity of software. Such legal ambiguity may affect whether software is included in the list under consideration.

3.7. List of trusted software

Law No. 325-FZ establishes a list of trusted Russian software. The maintenance of this list, as with the list of software for one's own needs, is entrusted to the Russian Ministry of Digital Development.

The conditions for being included in the list of trusted software are:

- the exclusive right to the software belongs to the Russian Federation, a constituent entity of the Russian Federation, a municipal entity, an individual who is a citizen of the Russian Federation without foreign citizenship, or a Russian organisation controlled by Russian persons;
- information about the software is included in the register of Russian software;
- the software complies with information security requirements;
- information about the software does not constitute a state secret.

The Russian Government has prepared a draft resolution regulating the rules for forming and maintaining the list (in this section, the "Draft Government Resolution")¹⁶.

According to the Draft Government Resolution, information will be included based on a decision of the Presidium of the Government Commission for Digital Development after an expert examination. Unlike on examination conducted when software is being included in the list for one's own needs, this examination is performed by a certified testing centre, which the right holder selects independently. The Government Resolution establishes the requirements and the procedure for the certification of testing centres.

Confirmation of inclusion in the list of trusted software will be a note to this effect in the register of Russian software or in the list of software for one's own needs.

¹⁶ The Russian Government's Draft Resolution "On Trusted Russian Software for Electronic Computing Machines and Databases" (Draft ID: 160230).

Information will be included in the list for a period of three years. If the right holder does not submit a new application three months before this period expires, the software will be excluded from the list.

To be included in the list, the software must comply with the general requirements, as well as with the requirements for specific classes of software (system software, office software, industrial software, and information security tools).

The practical significance of the list of trusted software is confirmed by the amendments that the Russian government has prepared to the public procurement rules: as noted above, in public procurement, Russian software without trusted status will be equated to foreign software, if an alternative bid is submitted with Russian software marked as complying with the requirements for trusted software¹⁷.

If adopted, the Draft Government Resolution will come into force on 1 March 2026, except for the provisions governing the certification procedure for testing centres, which will come into force on the date of official publication.

3.8. Register of data centres

In July 2025, a Law regulating the activities of data processing centres¹⁸ (a “DPC”, or “data centre”) was adopted. For more details on the new developments, see our alert.

The adoption of special legal regulation for data centres has resulted in authority being granted to the Russian Ministry of Digital Development to maintain the corresponding register.

For these powers to be exercised, a draft resolution has been drawn up regulating the rules for forming and maintaining the register of data centres (the “Draft Government Resolution”)¹⁹. According to the Draft Government Resolution, the register will consist of two sections:

- Section I will include information on data centres and on data centre operators providing services that involve equipment being sited which ensures that data is stored and placed;
- Section II will include information about data centres and about data centre operators that are processing and storing their own data.

All data centres will be classified according to their level of reliability:

¹⁷ [The Russian Government’s Draft Resolution “On Amending Certain Instruments of the Government of the Russian Federation” \(Draft ID: 160471\).](#)

¹⁸ [Federal Law No. 244-FZ dated 23 July 2025 “On Amending Articles 2 and 6 of the Federal Law ‘On Communications’ and Certain Legislative Instruments of the Russian Federation.”](#)

¹⁹ [The Russian Government’s Draft Resolution “On Approving the Rules for Forming and Maintaining the Register of Data Centres Located in the Territory of the Russian Federation” \(Draft ID: 160052\).](#)

- highest;
- high;
- medium;
- without a guaranteed reliability level.

The Draft Government Resolution does not set detailed criteria for classifying data centres.

To confirm a data centre's class, an expert council under the Russian Ministry of Digital Development will be established.

To be included in the register, a data centre in the register must meet the following requirements:

- security is monitored;
- physical protection is ensured;
- the reliability is ensured of engineering and technical support;
- there is restriction and control of access;
- there is the capability to back up data;
- there is an alarm system for intrusion;
- access rights are segregated within the data centre;
- other requirements established by law are complied with.

To be included in the register, a data centre operator must meet the following requirements:

- the person is a Russian citizen without foreign citizenship, or is a Russian legal entity controlled by Russian persons;
- the person is not recognised as a foreign agent, and is not involved in extremist activities or terrorism;
- the person is not undergoing liquidation;
- the executive body, members of the controlling body, or chief accountant are not listed in the register of disqualified persons.

The register will include the following information:

- For data centres: the address and cadastral number of the real estate facility where the equipment is located; documents confirming rights to the real estate facility; technical information about the real estate facility and data centre; and information on how to interact with the State System for the Protection of Critical Information Infrastructure;

- For data centre operators: details of the physical (legal) person.

The data centre operator undertakes not to place mining infrastructure within the premises of the data centre.

The Draft Government Resolution will come into force on 1 March 2026 and will remain in effect for six years, if adopted.

What to think about and what to do

In connection with the planned changes in tax legislation, it is necessary to prepare for an increase in the financial burden. In particular, it is recommended to pay attention to ongoing licence agreements, the sales model for IT solutions, and the amount of payments to personnel.

In terms of antitrust legislation, it is considered advisable to review contractual relationships with counterparties to exclude antitrust violations.

As far as industry legislation is concerned, we recommend conducting an audit for compliance with the conditions for being included in the new lists (registers) and to prepare to be included.

Help from your adviser

Pepeliaev Group's lawyers have extensive experience in advising IT companies on a wide range of issues concerning how the law is applied.

We are ready to provide legal assistance to prepare companies for the upcoming changes.

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