

THE LAW OF THE REPUBLIC OF ARMENIA

ON ORGANIZING AND CONDUCTING AUDITS IN THE REPUBLIC OF ARMENIA

17.05.2000

Non official translation

Article 1. The Scope of the Law and the Subject of Its Regulation

1. This law shall regulate the issues related to organisation and conducting audits at commercial and non-commercial organisations, institutions (including the ones established by foreign legal entities), branch offices or representative offices of legal entities, in local municipal entities, as well as audits conducted with individual entrepreneurs (hereinafter "business entity") registered in the Republic of Armenia or in foreign States and carrying out activities in the territory of the Republic of Armenia, as well as shall establish the unified procedure for implementation of audits.

2. Audit is a procedure implemented based on law, in the result of which shall be clarified the trustworthiness of reports, declarations, calculations specified for taxes and other compulsory payments, basic data, other documents (hereinafter- report) specified by the RA legislation presented by a business entity and the compliance of actual activities taken by the latter with the requirements of law and other legal acts.

3. Examination is an internal procedure implemented by relevant agency with the aim to clarify financial state and actual activities of a business entity as claimed in balance sheet, financial and other reports set by legislation, except for cases designed by the second part of this clause.

In cases of crediting and reimbursement of overpaid amounts as well as of control purchases, the specific procedures of examinations conducted by tax entities shall be defined by the Government of the RA.

No additional tax assessments shall be proposed as a result of examinations.

The examinations designed by this clause are conducted also based on written applications of taxpayers.

4. There shall be field audits, aimed at clarifying actual state of a certain element in the activity of the business entity, and desk audits aimed at clarifying the overall financial-economic state of a business entity. Field audits shall be considered those aimed at calculation of tax, customs, compulsory social insurance, natural resources use, ecology and other compulsory fees envisaged by law, as well as clarification of the accuracy of payments. Audits aimed at clarification of accuracy of payments to the State Budget, audit of activities carried out on the basis of license granted for a certain type of activity, audits aimed at maintenance of condition of established norms, conducting stock registers and audits of activities carried out with the help of them, examination of currency functions, sanitary-hygienic examinations, maintenance of anti-fire rules and other examinations of the kind shall be considered field audits as well. Desk audit shall be considered the one carried out through clarifying the accuracy of compiling documents on financial-economic activities, accounting, financial reports, balance, starting accounting documents, and by all means shall have the aim of raising the final or intermediate financial-economic activities results having relation to expedient and effective use of private and borrowed financial and commodity means of the organisation under audit. Stockholders, shareholders, founders or members of the business entity shall have the exclusive right to require desk audit of financial-economic activities.

5. This law shall not apply to audits that are being carried out by the State Body as a transaction Party within

the scope of the contract concluded between the State Body and business entity on the basis of civil-legal transactions.

6. This law shall not regulate the relationship related to supervision of activities of banks, as well as of persons licensed by the Central Bank of the RA carried out by the Central Bank of the Republic of Armenia, supervision carried out by Oversight Chamber of the National Assembly, appointment and carrying out examinations in compliance with requirements of Code of Criminal Procedure, relations connected with Customs control specified by RA Customs Code, audits carried out by stockholders, shareholders, founders or members to the executive body of the business entity, as well as relationship related to supervision over territorial and structural subdivisions of business entity carried out by executive body of the latter.

Article 2. State Bodies Carrying out Audits

1. The Bodies authorised to conduct audits within their competence in the territory of the Republic of Armenia are the following:

- RA Ministry of Justice
- RA Ministry of Transport and Communications
- RA Ministry of Environment Protection
- RA Ministry of Agriculture
- RA Ministry of Energy
- RA Ministry Co-ordinating Territorial Administration and Urbanisation Activities
- State Tax Service under the RA Government
- RA Inspection Board of Stock Market
- Department of Standardisation, Metrology and Certification under the RA Government
- Department of State Atomic Control under the RA Government
- Department of Control over Mountainous Parts and Secure Fulfilment of Industrial Activities under the RA Government
- RA State Bodies of Fire Control
- RA Service of State Hygienic and Anti-Epidemic Control
- RA State Fund of Social Insurance
- RA Ministry of Finance and Economy
- RA State Inspection Board of Language
- RA National Service of Statistics
- State Bodies Granting Licenses

In case of changes in State Bodies or in their competence authorisation of the latter shall conduct successor bodies or Bodies possessing relevant competence.

2. State Bodies carrying out audits shall act exceptionally in compliance with laws of the Republic of Armenia and within the scope of competence envisaged by those laws.

3. Intervention into current economic activities of business entities during audit shall be prohibited.

Article 3. The Aim and the Procedure of Conducting Audits

1. The aim of the audit is to clarify the trustworthiness of reports issued or presented to state bodies based on law and other legal acts in the sphere of activities of the business entity, implementation of state control over fulfilment of requirements of RA laws and legal acts and protection of property rights of the business entity.

2. Before starting the audit the Head (deputy official) of the relevant State Body shall issue an order or recommendation on carrying out audit where shall be mentioned the name of the Body carrying out audit, the full name of the business entity under audit, position, name, surname of official(s) carrying out audit, audit questions, the time period of audit, the aim, terms and legal bases for carrying out audit. Officials not mentioned in the order (recommendation) shall not be entitled to take part in audit. In case official carrying out audit is replaced with other official with about which the business entity shall be notified in accordance with the procedure established by this article.

In cases of audit of application of excise stamps and cash registers, base data and adjustment ratios, currency exchange offices and foreign exchange dealers as defined by the law "On Presumptive Payments", entrepreneurial activities conducted without state registration and/or corresponding license (permission), at the decision of the head of the tax entity, the authority of passing orders or issuing assignments may be passed to the heads of regional tax inspectorates of the Ministry of State Revenues [STS].

In case of audit conducted by entities of social insurance fund directed to checking the accuracy of hiring of employees to work by order defined by legislation, at the decision of the head of the state social insurance fund of the RA, the authority of passing orders or issuing assignments may be passed to the directors of regional centers of state social insurance fund.

During audit of business entities conducting activities without state registration and/or without corresponding license, the audit order (assignment order) must be completed with the name of the entity conducting audit, the title, full name of the authorized auditor(s), the purpose of the audit, audit period and legal basis for audit.

3. Two copies of the decree or instruction are given to the head of economic entity or the official replacing him 3 working days before starting the audit, except for audit of compliance with the obligatory requirements set for the organizers having a license (permission) for organizing lotteries, winning games, gambling houses, and pawn-shops; by the Department of Standardisation, Metrology and Certification under the RA Government in connection with the sale of unfit for use goods; by Tax bodies connected with usage of excise stamps and cash registers, basic data and their coefficients of correction specified by law on presumptive payments, currency exchange points or currency dealers, registration of shipped, provided, transported or sold products, goods, when business activity is carried out without state registration, without an appropriate license (permission) , as well as when aimed at checking the accuracy of hiring of employees to work by order defined by legislation conducted by entities of state social insurance fund and/or audits carried out by inspectors of environmental authority. The latter shall sign to one copy confirming thereby that they are notified about audit. After this the given copy shall be passed to the state official carrying out the audit.

4. Official(s) carrying out audit shall have no right to act beyond the scope of the aim mentioned in the order (recommendation) on carrying out audit.

5. In case there come forth new circumstances and needs, the aims and scope of the audit may be amended by relevant State Body at the written substantiation presented by official(s) carrying out audit, on which the

head or the deputy of the business entity shall be notified in writing by being presented the new order (recommendation) together with the previous one.

Article 4. Terms of Audit

1. The term of one and the same audit of a business entity shall not exceed 15 uninterrupted working days per year, and the 1st day of audit shall be considered the day when the audit has actually started. The actual day of starting audit shall be considered the day when relevant record has been made in the check-up register of the organisation.

Check-up register of the business entity shall include information on audits carried out during the year, the relevant State Body that has carried out the audit, the membership of the officials that have carried out the audit, audit questions, aim and terms of the audit.

2. The term of audit must not exceed the term mentioned in the order (recommendation) on carrying out audit issued by the head (official replacing him) of relevant State Body. At written substantiation of official carrying out audit and by order (recommendation) of the head of relevant State Body the terms established by clause 1 of this article may be suspended up to 10 uninterrupted working days, if there is necessity, by notifying the head or the deputy of the business entity under audit. In case there arises need to clarify certain information during the audit or if the documentation related to the audit has been confiscated during investigation, preliminary inquiry or based on the decision of court, or in case of natural calamity or if there are other unpredictable circumstances that make carrying out of audit impossible, carrying out of audit shall be suspended till there is no base to suspend the audit order based on written report of official(s) carrying out audit and by order of the head of State Body; and actual terms of general duration for carrying out audit must not exceed 30 uninterrupted working days (excluding suspension period).

3. The same state body is allowed to audit the same economic entity not more than once in a year, except cases specified by point 3 of article 3 of this law as well as cases when audit of the economic entity is implemented before returning, based on taxpayer application, the paid amount of money exceeding the specified amount of tax liabilities calculated according to the order specified by Tax legislation.

In case there are legal bases established by this law for carrying out audit the body authorised to conduct audits shall be entitled to conduct a double audit within a year. After a desk or field audit of the economic entity implemented by the RA MSR any audit of correctness of relations between the same economic entity and the state budget, for the same period of time is considered a double audit.

4. In case when, as a result of double audit, the justification of starting a double audit fails to be proved (appears to be groundless) the persons presented the justification are subject to liability according to the order specified by RA legislation.

Article 5. Legal Grounds for Carrying out Double Audits

Double audit is the one carried out by authorised body with the one and the same business entity for the 2nd time within a year.

Double audit shall be conducted in case:

- a) The business entity is liquidated;
- b) At the request of the head of business entity;

- c) At the written order of the RA Prime Minister;
- d) By lawful court decision are proved criminal actions of authorised official while carrying out audit;
- e) At the request of State Authorised Body of state property privatisation, if the necessity to conduct audit is conditioned by implementation of privatisation preliminary works of business entity with state participation or state participation with more than 51 percent;
- f) Stipulated in article 7 (h) of this law.
- g) Invalid;
- h) In case specified in clause 3 of article 11 of this law.

Article 6. Overview of Audit Results

1. A statement shall be drawn in 2 copies based on the results of audit, and if the business entity has state share the protocol shall be made in 3 copies; in case there are no violations and flaws a certificate shall be granted where shall be mentioned the date and place where the certificate has been made, names of the relevant State Body that has carried out the audit and the business entity, the membership of officials that have carried out audit, the aim, terms and results of the audit, and if there has been drawn a statement it must include explanations of representatives of business entity (special opinion), the number of copies and identification number.

There must be given recorded violations in audit statement and those legal norms that have not been met, the exact time of violation, reference to relevant documents, and appropriate legal bases to implement responsibility.

2. The officials carrying out the audit shall present the drawn up statement to the head or the deputy of the business entity within 3 days. The officials that have carried out the audit and the head or the deputy of the business entity shall sign the statement. In case there is disagreement between Parties the opinions of the latter shall be mentioned in the statement. If the head or the deputy of the business entity do not agree to sign the statement an appropriate record concerning this fact shall be made in the statement, and the time period for business entity to sign the statement and present disagreements must not exceed 3 working days. One copy of the statement shall be passed to business entity. If the latter is a state organisation or has state share in it, then one copy of the statement shall be sent to higher body of state administration.

3. Investigation of cases on violations, revealed in the result of audit, shall be carried out in due course of law of the Republic of Armenia.

Article 7. Rights of Officials Conducting Audit

Officials carrying out audit have right:

- a) To have free entry, while producing their duties, into the business entity 's subdivisions under audit at the presence of the representative of the latter;
- b) To demand documents, data and other information, explanations, certificates that have direct relevance to the audit carried out within the scope of their competence;
- c) To involve professionals of the business entity into audit process if necessary at the consent of the head of business entity or its deputy;
- d) To establish time period for emending those flaws and violations discovered that do not lead to criminal or

administrative responsibility;

- e) To make proposals to the State Body authority appointing audit to take relevant measures concerning abuses and violations that lead to administrative or criminal responsibility;
- f) To take documents, duplicates, photocopies of documents, things, samples and other necessary substances that have direct relevance to the aims of audit and do not hamper the regular activities of the business entity. When taking documents the officials carrying out audits put a stamp of the tax authority on the copies of the documents and hand them to the representative of the business entity;
- g) To implement supervision audits on implementation preciseness of metrology, weighing, measuring and other relevant machines and equipment connected with the aim of audit;
- h) To conduct audit in order to find out legitimacy of the given transaction only, for the aim to give grounds to implementation of monetary functions, reports and preciseness of carrying out calculations by the business entity under audit;
- i) To require the head or the deputy of the business entity, within the scope of issues mentioned in audit order, to carry out inventory of basic funds, commodity-material values, financial means and calculations involving into this process appropriate employees and professionals of the business entity;
- (j) To require, if necessary, certificates and copies of documents on calculations of transactions of the establishment under audit from Tax, Customs state bodies and other agencies registering property rights in the procedure established by legislature of the Republic of Armenia.

Article 8. Duties of Officials Conducting Audit

1. Officials carrying out audit must:

- a) Meet all requirements imposed by law and other legal acts of the Republic of Armenia related to audit;
- b) Not issue, without written consent of business entity, any information concerning activities, any project or blueprint of activities, discovery, model, industrial sample and any other information the business entity had intended to keep in secret, and the official(s) knew or could have known about that intention, as well as information that has been a commercial secret (hereinafter information) revealed during audit.

In the context of this Law information issuing shall mean publication and information spreading through mass media or with the help of other means in writing or orally, or passing it to a third Party.

- c) Protect rights and interests of business entity envisaged by law and other legal acts;
- d) Not hinder regular works of business entity;
- e) Make known to officials of business entity their rights and responsibilities;
- f) Exceptionally keep to those laws and other legal acts that have been published in official bulletins of official and department normative legal acts of the Republic of Armenia, if there was defined such need in publishing the latter at the moment they entered into force;
- g) Give written response to any written inquiry of the head or the deputy of business entity, directly related to audit period of the economic entity, concerning audit.
- h) In case of detecting violations during the double audit implemented in economic entities according to the written assignment of the Minister of the RA MSR, in cases specified in clause 3 of article 3 of this law, use the means of amenity specified by law only for violations related to the subject (subjects) of audit.

2. While temporarily taking documents, things, samples and other necessary issues having direct relevance to the aim of audit a protocol shall be drawn where shall be mentioned the terms of giving back those issues, and one copy of that protocol shall be presented to the head or deputy of the business entity.

3. Officials carrying out audit shall bear responsibility for maintenance of qualitative and quantitative integrity and due-time return of documents, issues, samples and other necessary substances taken temporarily.

4. It shall be prohibited to stamp a seal during audit on warehouses, buildings, cashes, sources of energy, equipment, machines, etc, except for record-taking activities implemented by a tax authority in due procedure of law unless such activities do not hamper regular activities of the business entity.

Article 9. Rights of Officials of Business Entity

Officials of business entity shall have right:

a) To prohibit audit (putting documents at disposition of officials carrying out audit) by presenting a written notification on the very day to state bodies authorised to conduct audit, if the latter have ignored demands of articles 3 and 4 of this Law;

b) To get familiar with audit statements;

c) To present explanations, clarifications, sue solicitations, appeal actions of officials in due course of law;

d) To demand refund for damages accrued in the result of illegal actions taken by officials carrying out audit,

e) Not to meet demands of officials carrying out investigation that are beyond competence of the latter and aims of audit;

f) Involve professionals, experts, auditors, and lawyers at any stage of audit with the aim to protect interests of business entity under audit.

Article 10. Responsibilities of Officials of Business Entity

Officials of business entity must:

a) Not hinder the audit and meet legal demands of officials carrying out audit;

b) upon the demand of the auditors to submit the documents, data, provide copies thereof (expenses for making copies of the documents are incurred by authority carrying out the audit) and other information. As soon as there are no grounds for the claim, but not later than 3 years, the documents are returned to the business entity;

c) Make necessary condition for activities of officials carrying out audit;

d) Correct flaws and violations mentioned in audit results statement in due terms by informing the body carrying out audit about the latter in writing.

Article 11. Responsibilities of Officials Carrying out Audit and Appellation of Actions

1. Officials carrying out audit with violating requirements of this Law shall bear responsibility in due course of the RA legislation.

2. Actions of officials carrying out audit may be appealed to the state body the official(s) are under direct subordination or to court in due course of law. The head or deputy of business entity may prohibit audit till he gets answer to the appeal, except cases specified by point 3 of article 3 of this law.

3. Appellations shall be investigated in subordination order and decisions concerning the latter shall be made not later than within 30 calendar days after it has been received. Facts presented in appellation shall be

accepted in case the appeal is not answered in due terms. Computation of term established by this point shall start from the 1st working day proceeding the day the written appeal has been presented to relevant body.

4. In case the head or the deputy of the business entity under audit does not agree with the decision made he shall have the right to appeal it to court.

Article 12. Refund for Damages to the Business Entity Accrued in the Result of Illegal Actions Taken by Officials Carrying out Audit

Refund to the business entity for damages, missed profits as well, accrued in the result of illegal actions taken by officials carrying out audit shall be subject to payment from the State Budget in due course established by legislation of the Republic of Armenia and in terms stipulated in the RA law "On RA Budgetary System".

Article 13. Entering the Law into Force

This law shall enter into force starting from July 1, 2000. After this Law enters into force, laws and other legal acts that regulate organisation and conducting audits shall be considered valid if they not contradict to the demands of this Law.

President of the Republic of Armenia

Robert Kocharyan

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- 03.04.2001
- 14.12.2001
- 06.11.2002
- 11.12.2002
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