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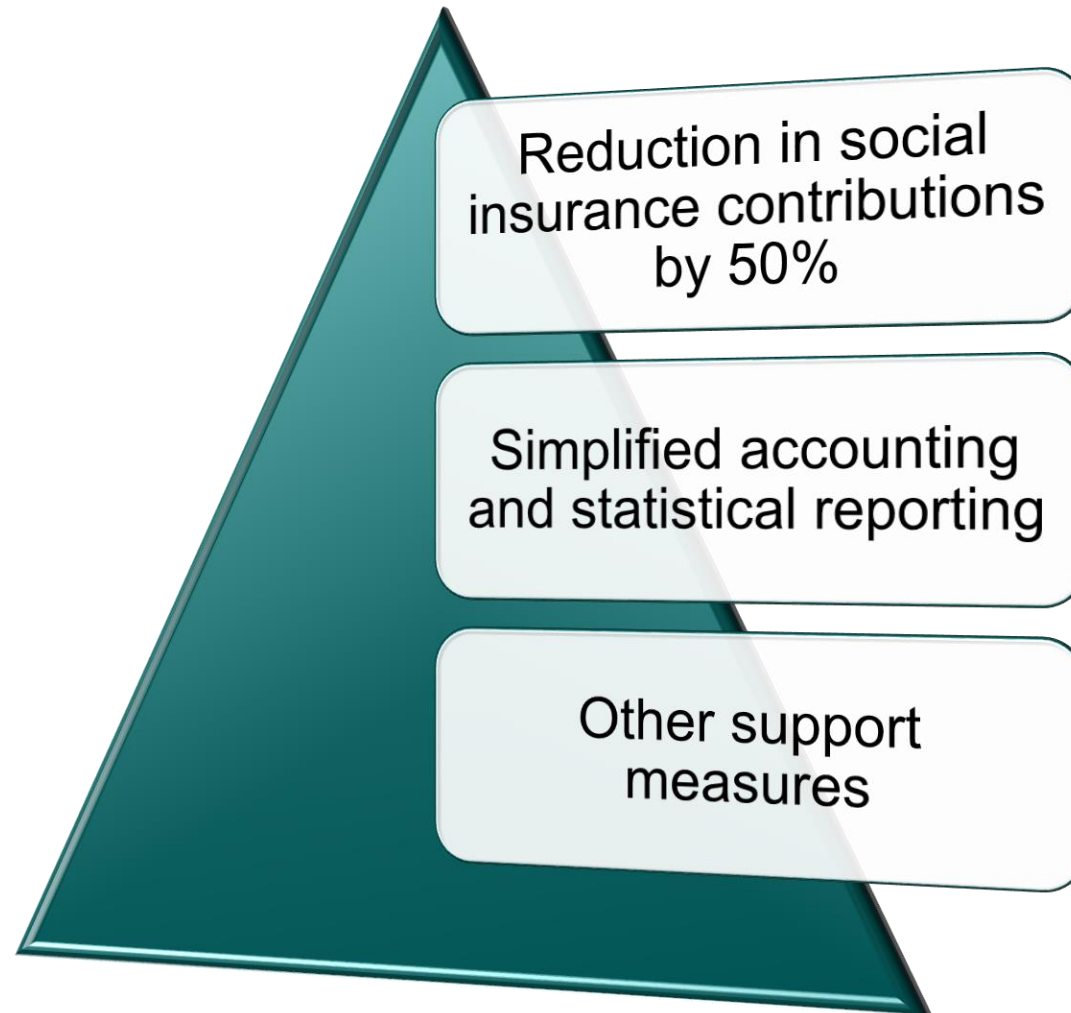
- 1. Inclusion in SME register and benefits for SMEs in 2021**
- 2. Changes for suppliers of foreign software**

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# 1.1. Benefits for SMEs in 2021



## 1.2. SME criteria



Organizations meeting the following conditions simultaneously are recognized as **small and medium enterprises (SMEs)** :

- Organizations meeting the conditions for SME (see below)
- Organizations whose details are included in the SME register (*Federal Law No. 209-FZ dated July 24, 2007 On the Development of Small and Medium Enterprise in the Russian Federation*)

Main conditions for SME:

1. Compliance with shareholder restrictions (state, municipality share cannot exceed 25%, the share of foreign companies and Russian organizations that are not SME cannot exceed 49%);
2. The average number of employees for the previous calendar year should not exceed 250;
3. Taxable income for the previous calendar year should not exceed RUB 2 billion;
4. Other conditions (Skolkovo participants, engaging in innovative activities, etc.)

# 1.3. General procedure for maintaining SME register



The Federal Tax Service of Russia maintains the SME register automatically based on the data from the State Register of Legal Entities, the returns provided by taxpayers, and information about the number of employees.

The law sets the following deadlines for updating the SME register:

1. Organizations are included in the SME register by the Federal Tax Service every month based on information available on the 1<sup>st</sup> of each month;
2. New organizations meeting the criteria for SME are included in the SME register on the 10<sup>th</sup> of the month following the month their details are recorded in the State Register of Legal Entities.

# 1.4. Restrictions for companies with foreign capital



To be recognized as an SME, the share of foreign shareholders in the company's capital cannot exceed **49%** in total

This rules **does not apply to foreign shareholders whose:**

- Income for the previous calendar year does not exceed RUB 2 billion;
- The average number of employees for the previous calendar year does not exceed 250;
- Permanent location is not an offshore zone (offshore countries as listed by the Russian Ministry of Finance).

# 1.5. Procedure for including LLC/OOO with foreign capital in the SME register

1. Every year LLC/OOO concludes an agreement with an audit company for confirmation of foreign shareholder's compliance with statutory criteria;
2. The audit company reviews the foreign shareholder's income and average number of employees for the previous year;

**Important note: LLC/OOO must submit to the audit company the foreign shareholder's reporting for the relevant year as filed with tax authorities in the shareholder's country.**

3. As a result, the audit company compiles a list of LLC/OOO whose shareholders are foreign organizations meeting the criteria for inclusion in the SME register;
4. The audit company sends the list to the Federal Tax Service of Russia (electronic document). The deadline for submission of this list is from the 1<sup>st</sup> to the 5<sup>th</sup> of each month.

# 2.1. Fiscal changes for IT companies



Now	From 2021 onwards
<p>Exempt from tax:</p> <ul style="list-style-type: none"><li>• Transfer of exclusive rights to programs and databases</li><li>• Transfer of rights to use programs and databases under a license agreement</li></ul>	<p><i>Article 149 (2(26)) Russian Tax Code</i></p> <p>Exempt from tax:</p> <ul style="list-style-type: none"><li>• Transfer of exclusive rights to programs and databases included in the register of Russian programs and databases (<a href="http://reestr.minsvyaz.ru">reestr.minsvyaz.ru</a>)</li><li>• Transfer of rights to use programs and databases included in the register of Russian programs and databases , (<a href="http://reestr.minsvyaz.ru">reestr.minsvyaz.ru</a>)</li></ul> <p><b>Except</b> for cases where the transferred rights entail:</p> <ul style="list-style-type: none"><li>• Distributing advertising information on the internet and/or granting access to such information;</li><li>• Posting offers for the purchase/sale of goods (work, services), property rights on the internet;</li><li>• Searching for information about potential buyers/sellers and/or concluding transactions.</li></ul>

Read more – [Tax relief for IT companies in Russia](#)

[Changes in VAT relief for foreign companies in 2021](#)

## 2.2. Provision by foreign organizations of rights to programs and databases recognized as e-services



**Provision of e-services** is the provision of rights to use software programs (including computer games), databases via the internet, including by providing remote access to them (including updates and additional functionality)

*(Article 174.2 Russian Tax Code)*



## 2.3. VAT imposition depending on the use of the internet to provide rights to use program/ database



Foreign licensor provides right to use program and/or database not included in the register of Russian programs and databases



Without using the internet



Subject to VAT

VAT withheld and paid by tax agent (licensee)



Through the internet



Subject to VAT

Recognized as e-service

VAT paid as per the rules for e-services

## 2.4. Consequences of recognition of transfer of rights to programs and databases as e-services



- a. Foreign organizations (licensors, sub-licensors) must register with tax authorities within 30 days of the start of the license;
- b. Foreign licensors must submit a VAT return using their online taxpayer account or in electronic form;
- c. Foreign licensors must pay on their own VAT on e-services.

## 2.5. VAT deduction if transfer of rights to programs<sup>a+</sup> and databases is recognized as e-services

Russian licensors may deduct VAT on software and database licenses if the following is available:

- **Agreement and/or payment document specifying the amount of VAT, taxpayer identification number (INN) and KPP of foreign licensors;**
- **Documents for payment transfer (with VAT) to foreign licensors.**

The details of such foreign organizations (name, INN, KPP, date of registration with tax authorities) are found on the website of the Federal Tax Service of Russia.

# Thank you for your time!



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