

TAX EXEMPTIONS FOR GIS COMPANIES

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Nowadays, the state provides real support to hi-tech industries. In particular, this is illustrated by significant amendments in law, simplified customs rules and regulations and secrecy attitudes.

These new moves, specifically tax exemptions, if correctly interpreted and applied, shall allow hi-tech companies including those operating in GIS-technology field to gain advantage over foreign companies and companies that do not enjoy tax exemptions.

Last summer significant law amendments were made to create favorable tax environment for investments in innovations. The amendments made are to some extent unique for Russia, and it is safe to say that such tax environment is created in few countries.

The amendments entered into force with effect from January 1, 2008 with the following tax exemptions:

1. The following shall be exempt from VAT in the Russian Federation: exclusive rights to inventions, useful models, industrial prototypes, computer software, data bases, integrated circuit layouts, know-how as well as use of said deliverables of intellectual activities based on license agreements.

This new move, if correctly applied, shall provide companies with legal advantages. In particular, it shall cut tax and customs duties owing to clear split between delivered (purchased) equipment and transferred exclusive rights to software, since transfer of exclusive rights to software shall be exempt from VAT and customs duties.

2. Exemption from VAT in the Russian Federation shall apply to R & D related to new products and processes if the R & D include:

- development of engineering products or technical systems;
- development of new processes (i.e. methods of combining physical, chemical, production and other processes with working processes to obtain an integral and consistent system for making new products (goods, jobs, services);
- making of prototypes without conformity certificates of machines, equipment, and materials with conceptual features representative of new products which are not to be sold to third parties, as well as tests thereof for the period of time required to obtain data and gain experience to present them in technical documents.

The above tax advantage may be widely used by GIS companies in development work. Specifically, this is important for GIS companies filling governmental and municipal orders.

In addition, other benefits shall be provided. Specifically, they include wider list of funds aimed at supporting R & D to be exempted from income tax; and the right to use a specific coefficient to basic depreciation rate related to depreciated fixed assets used only for science and technology purposes.

Owners of GIS small businesses should know that the list of expenses that reduce income in the light tax system is extended to include expenses for exclusive rights to inventions, useful models, industrial prototypes, computer software, data bases, integrated circuit layouts, know-how as well as use of said deliverables of intellectual activities based on license agreements; expenses for patenting and (or) legal advice related to legal protection of intellectual property including differentiation facilities; and expenses for R & D.

In addition, the above norm would be useful for large businesses that sell products to small businesses in so far as such businesses will actively purchase these products.

The above norm must be correctly applied. First, we recommend that contracts of equipment delivery shall make clear distinction between material and intellectual

components. Intellectual property items shall be essentially subject to individual tax regulations.

Second, painstaking and at least effective work shall be done to identify intellectual property items and validate the rights thereto and introduce every such item (computer software, data bases, GIS systems etc.) into business with individual share in the contract price.

Third, this is extremely important to review the scope of Your contracts to determine whether tax exemption may be applied. As experience shows, many companies use contracts designed last century. Though such contracts clearly identify relationship between parties, they use wrong and inaccurate wording which prevents use of tax exemptions.

Our experience shows that large number of GIS companies may tie the above tax exemptions to their contracts.

Once again, tax burden on Russian GIS companies, if correctly applied, is now significantly lower than the tax burden in most of industrialized countries. Sure, application of tax exemptions are useful for the companies that compete with world manufacturers of GIS systems.