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GOVERNMENT OF THE REPUBLIC OF ARMENIA

DECISION

N 346-N of 7 March 2013

ON APPROVING THE PROCEDURE FOR GRANTING APPROVAL TO BUSINESS PLANS, AS WELL AS CALCULATING ADDITIONAL SALARY AND EQUIVALENT PAYMENTS ON NEW JOBS CREATED WITHIN THE FRAMEWORKS THEREOF

In accordance with part 2 of Article 39.3 of the RA Law on Profit Tax, the Government of Armenia hereby *decides*:

1. To approve:
 - 1) the procedure for granting approval to business plans, as well as calculating additional salary and equivalent payments on new jobs created within the frameworks thereof, in accordance with Annex 1, and
 - 2) the model contract on the implementation of the business plan and the monitoring system, in accordance with Annex 2.
2. This decision shall enter into force on the day following the day of the official promulgation.

RA Prime Minister

T. Sarsyan

April 13, 2013
Yerevan

PROCEDURE

FOR GRANTING APPROVAL TO BUSINESS PLANS, AS WELL AS CALCULATING ADDITIONAL SALARY AND EQUIVALENT PAYMENTS ON NEW JOBS CREATED WITHIN THE FRAMEWORKS THEREOF

1. This Procedure shall regulate relations pertaining to granting approval to the business plans stipulated by Article 39.3 of the RA Law on Profit Tax, as well as calculating additional salary and equivalent payments on new jobs created in the frameworks thereof.

2. For the purpose of this Procedure_

1) This Procedure shall apply to residents envisaged by the RA Law on Profit Tax, other than residents performing activities in the trade or financial sectors;

2) The profit tax amount shall be reduced for the launch of the business plan and for two reporting periods following the launch. The launch of the business plan shall be deemed the period defined by the respective decision of the RA Government;

3) New jobs shall be deemed the positive difference between employees stated in the report filed in the manner established by the RA legislation in the period of granting the privilege as per decision mentioned in provision 2 hereinabove, and employees stated in the last report on the number of employees filed in the period preceding the launch of the business plan;

4) Amount subject to reduction from the calculated profit tax amount shall be the additional salary and equivalent payments actually paid in the reporting period on new jobs created in the period of granting the specified privilege;

5) Additional salary shall be the total sum of salary and equivalent payments paid for new jobs deemed as such under this Procedure, as stated in each report filed in the reporting period in the manner stipulated by law.

3. The profit tax amount for the launch of the business plan and the following two reporting years shall be reduced by 100 percent of additional salary and equivalent payments calculated for the respective year on new jobs created within the frameworks the business plan, which yet shall not be less than 30 percent of the actual profit tax amount calculated for the respective reporting year.

4. To seek approval of the business plan, the person implementing the business plan shall submit an application, in writing or electronically, to the Staff of the RA Government, in at least one month prior to the launch of the plan.

5. The business plan and information about the economic (business) activity of the person shall be filed attached to the application, in accordance with Forms N 1 and N 2 hereof.

6. The applicant shall bear responsibility, in the manner stipulated by law, for accuracy/reliability of information provided by him.

7. Within not longer than 3 (three) business days of filing the application with the Staff of the RA Government, the application, on the instruction of the RA Prime Minister, shall be submitted to the RA Ministry of Finance and the State Revenue Committee at the Staff of the RA Government (RA SRC), to seek opinion, and to the RA Ministry of Economy, to seek conclusion.

8. The RA Ministry of Finance and the RA SRC shall review the application within 5 (five) business days and submit opinions to the RA Ministry of Economy, by attaching assessments (scores) of criteria for the business plan as prescribed by provision 8 hereof.

9. The RA Ministry of Economy, the RA Ministry of Finance and the RA SRC shall evaluate the business plan, in accordance with the following assessment criteria (by enclosing the assigned maximum score in brackets):

- 1) Feasibility and sustainability (5)
- 2) Degree of risk (5)
- 3) Multiplicative effects on the economy (4)
- 4) Employment growth and size of average salary of the area (7)
- 5) Innovation and competitive advantage (4)
- 6) Export promotion and/or import substitution (8)
- 7) Proper marketing policy (6)

- 8) Availability of co-financing (50% and over participation of the owner in the plan) (5)
- 9) Labour productivity (3), and
- 10) Application of the principles of corporate governance code (availability of annual declaration of corporate governance) (3).

10. The RA Ministry of Economy shall prepare a conclusion within a 7-day period after the date of receiving the opinions, by summarizing the opinions and the evaluation results of the business plan provided by the RA Ministry of Finance and the RA SRC.

11. The results of evaluation of the business plan shall be summarized taking into account the arithmetic average of each criterion.

12. The plans having received 26 and above scores in the result of summarizing shall be endorsed by a positive conclusion, and those with lower scores – by a negative conclusion.

13. Based on a positive or a negative conclusion, the RA Ministry of Economy shall prepare a respective draft decision of the RA Government and submit it to the Staff of the RA Government.

14. Within a 5-day period after the date of receiving the respective decision of the RA Government, RA Ministry of Economy shall inform the person about it.

15. Within one-month period after the date when the positive decision of the RA Government becomes effective, the RA Ministry of Economy shall conclude a contract with the person, in accordance with Annex N 2 of the RA Government Decision N 346-N, dated 7 March 2013.

Minister - Chief of Staff of the RA Government

D. Sargsyan

BUSINESS PLAN**1. Brief information about the person's activity**

1.	Name of the person (company name)		
2.	Location, contacts		
3.	Legal organizational form		
4.	Profile/area of activity		
5.	Premises available/required for the plan		Available premises
	Land plot		
	Buildings and structures		
	Other		
6.	Form of Ownership, including shareholders, by shareholding		
	1.		
	2.		
	3.		
	4.		
7.	Year of establishment	Periods of launching the activity	
8.	Purpose of the plan/information about the implemented plan		
9.	Description of the marketing policy		
10.	Partners		
11.	Competitive advantages		
12.	Conformity to principles of corporate governance code (specify applied principles)		
13.	Other information related to the plan (if necessary)		

1. Investments

NN	Direction	Equity	Other funds
	1	2	3
1.			
2.			
3.			
	Total investments		

Guidelines to fill in Form N 1

1. 1: Section “Brief information about the person’s activity”:
- 1) Line 5: Specify spaces of available/required premises for the plan in square meters.
- 2) Line 6: If the person is an organization, specify the form of ownership, and in the remaining lines, fill in the names of persons holding 15 and more percent of shares.
- 3) Line 8: Describe in text format the purpose of the plan, making notes about already fulfilled and necessary works and their timelines.
- 4) Line 9: Describe in text format marketing policies, whether in progress or planned, by specifying the amounts (funds) necessary for their implementation.
- 5) Line 10: Provide in text format information about existing and potential partners for realizing the outcome of the activity of the plan, in case of availability of contracts or arrangements.
- 6) Line 11: Describe in text format competitive advantages of the outcome of the activity of the plan.
2. Put «-» mark in columns, where information requested in the Form is not available.

Form N 2

1. Information about the economic (business) activity of the person

NN	1	2	3	4	5	6	7
1.	Indicator	20__ year	20__ year	20__ year	20__ year	20__ year	20__ year
2.	Product						
3.	Sales						
4.	Export						
5.	Export destination countries						
6.	Number of jobs						
7.	Average salary						
8.	Productivity						
9.	VAT						
10.	Profit tax						

Guidelines to fill in Form N 2

1. Line 1: Section “Information about the economic (business) activity of the person”:
- 1) Information requested in columns 2, 3 and 4 shall be provided for two years preceding the year of filing the application, and in the next columns, for coming years until the end of the plan.
- 2) The measurement unit for Lines 2, 3, 4, 7, 8, 9 and 10 shall be expressed in thousand Armenian drams (AMD).
2. Put “-” mark in columns, where information requested in the Form is not available.

MODEL CONTRACT

ON THE IMPLEMENTATION OF THE BUSINESS PLAN AND THE MONITORING SYSTEM

Yerevan

Date: _____ 201_

The Republic of Armenia, represented by the RA Ministry of Economy (hereinafter referred to as “the Ministry”), acting in the person of Minister _____, as one party, and _____, acting in the person of _____ (hereinafter, the “Company”), as the other party (hereafter jointly referred to as “the Parties”), based on the RA Government Decision N 346-N of 7 March 2013, enter into this contract (hereinafter “the Contract”) as follows:

1. Subject of the Contract

Hereby, the Company assumes the obligation to fulfil the works envisaged under the business plan approved by the RA Government Decision N 346-N of 7 March 2013 (henceforth “the Plan”), and the Ministry assumes the obligation to assist, within its authorities, the Company in the process of implementing the Plan.

2. Rights and Responsibilities of the Parties

- 2.1. The Ministry shall:
 - 2.1.1. conduct monitoring of the implementation of the Plan.
- 2.2. The Ministry shall have the right:
 - 2.2.1. to implement supervision over the monitoring of the Plan conducted by the Company;
 - 2.2.2. to demand from the Company submission of reports/statements stipulated by Clause 3.5 of the Contract.
- 2.3. The Company shall:
 - 2.3.1. _____;
 - 2.3.2. _____;
 - 2.3.3. increase tax liabilities in proportion to the increase of the number of employees and sales volumes of the production;
 - 2.3.4. execute instructions of the Ministry provided in connection with elimination of detected shortcomings, and
 - 2.3.5. perform other necessary works envisaged by the Plan.
- 2.4. The Company shall have the right:
 - 2.4.1. to decide independently on the mechanisms of implementing the Plan, and
 - 2.4.2. to engage other organizations and individual experts in the implementation of the Plan, by taking the responsibility for the quality of their works.

3. Reporting and Monitoring

- 3.1. The Company shall conduct monitoring, with the view of conformity assessment of preliminary, current and final results of the implementation of the Plan.
- 3.2. The Ministry may conduct monitoring within the scope of the Plan, at any time, as well as review the monitoring carried out by the Company and any documents and materials related to the Plan.
- 3.3. For the purpose of correcting/eliminating shortcomings and deficiencies detected during the monitoring, the Ministry may provide instructions and recommendations to the Company.
- 3.4. In the course of the monitoring, the Ministry may request the Company to provide clarifications and explanations in writing or verbally.
- 3.5. The Company shall submit monthly reports (narrative reports and financial statements), within 10 business days following the ending day of each reporting period.

4. Liability of the Parties

4.1. If the Company fails to fulfil, or fulfils improperly, the obligations stipulated by the Contract and the Plan, and avoids the supervision of the Ministry, the Ministry shall have the right to terminate the Contract unilaterally and submit a respective draft decision to the RA Government.

4.2. Herewith, the Parties agree to settle disagreements arising in connection with the Contract through negotiations. In the event the Parties fail to reach an agreement, the disputes shall be resolved judicially.

5. Effective Period of the Contract

5.1. The Contract shall enter into force upon its signing by the Parties and remain in effect until the end of the proper implementation of the Plan.

5.2. The Plan shall be deemed performed upon execution of obligations defined by the Contract.

6. Force-Majeure Clause

The Parties shall be relieved of liability for full or partial failure to fulfil their obligations assumed by the Contract provided such failure result from force-majeure events/circumstances occurred after concluding the Contract, which the Parties could not foresee or prevent. Such events/circumstances are earthquake, flood, fire, war, announcement of martial law and state of emergency, lockout of communication means, acts of state bodies, etc, which make fulfilment of the obligations undertaken by the Contract impossible. If the impact of the force-majeure event/circumstance last longer than 3 (three) months, each Party shall have the right to terminate the Contract, by notifying the other Party about it beforehand.

7. Concluding Provisions

7.1. Any amendments and restatements to this Contract shall be legally binding, if made in writing and signed by the Parties.

7.2. Relations not envisaged by the Contract shall be subject to regulation in the manner stipulated by the RA legislation.

7.3. The Contract is concluded in the Armenian Language, in two legally binding copies. Each Party shall be provided with the copy of the Contract.

8. Addresses and signatures of the Parties

Minister – Chief of Staff of the RA Government

D. Sargsyan