

<i>Number:</i>	HO-245-N	<i>Type:</i>	Incorporation
<i>Type:</i>	Law	<i>Status:</i>	Effective
<i>Original source:</i>	RA Official Journal 2014.12.30/76(1089).1 Art. 1253.34	<i>Place of adoption:</i>	Yerevan
<i>Adopting body:</i>	RA National Assembly	<i>Date of adoption:</i>	17.12.2014
<i>Signing body:</i>	RA President	<i>Date of signing:</i>	30.12.2014
<i>Validating body:</i>		<i>Date of validation:</i>	
<i>Effective date:</i>	09.01.2015	<i>Date of invalidation:</i>	

THE LAW OF THE REPUBLIC OF ARMENIA ON STATE SUPPORT TO INFORMATION TECHNOLOGIES SECTOR

Adopted on December 17, 2014

Article 1. Subject of Regulation of the Law

1. This Law shall define the basic principles of state support to the sector of information technologies and regulate the relations pertaining to formation and operation of the system of implementing state support in the sector.

Article 2. Legislation on State Support to Information Technologies Sector

1. The legislation on state support to information technologies (IT) sector shall consist of this Law, the Civil Code of the Republic of Armenia and other legal acts.

2. If international treaties of the Republic of Armenia define norms other than those stipulated by this Law, the norms of international treaties shall apply.

Article 3. Main Concepts used in the Law

1. The main concepts used in this Law are as follows:

1) **Information technologies** – computer-based information technologies, i.e., software, servicing or management information systems, as well as information of all formats, including all types of technologies used for creation, transformation, storing, protection, processing, transmitting and secure collection of data and images (motion, static);

2) **Types of activities subject to state support:**

a. development of software, which includes creation, edition, testing and support of software, creation of applications for clients, development of system and software applications, databases, structure and content of websites and/or creation of automated commands/scripts for development and processing thereof, redesign of application support including change of software for some functionalities and adaptation to customers' system environment,

b. advisory activities in the sector of computer technologies, which include development and design of hardware resources and integrated computer systems for software and communication technologies, and services related to training of users,

c. computer systems management activities, which include local network management and development of computer systems for customers and/or servicing of technical methods for data processing and other support activities,

d. data processing, data allocation in network and related activities, which include ensuring of site allocation infrastructures and data processing in network (full processing of data by applying users' or original software, data automation and services that provide inputs, including database management services) and related services, specialized services related to site allocation (hosting service), including site allocation in internet (Web hosting), data flow transmission (indiscrete, by packages) or allocation of applications, software or hardware resource launch, users' service through central (global) computer in global time-sharing mode,

e. activities related to web-portals, which include operations related to websites, i.e., use of search engines for creation and servicing of extensive database from certain data posted on the internet in certain format, with the view of organizing easy and achievable search by addresses or content, operations related to other web-sites, which function as internet portals, such as news websites that provide regular information updates, and

f. implementation of educational/training and research programs in the IT sector;

3) **Economic entity** – commercial and non-commercial organizations performing activities in the sector of information technologies, including foreign legal entities, branches or representations of a legal entity, and individual entrepreneurs;

4) **Accelerators, incubators** – organizations, which support innovative projects of start-ups and small-scale organizations in all stages of their development, by providing advisory services and/or other resources;

5) **Technology park (techno park), technology center (techno center)** – a legal entity or a treaty-based union of legal entities (participants), which pursues the principal objective of performing activities aimed at implementation of investment and innovative projects, conducting of research and development, introduction of high technologies, and production of goods competitive in the global market, through creation of appropriate innovation environment, formation of material and financial basis thereof;

6) **Certificate** – a document attesting the right to enjoy tax incentives;

7) **Certification Commission** – a commission vested with the authority to provide, amend, deny, withdraw a certificate, in the manner stipulated by this Law;

8) **Certified person** – an economic entity having received a certificate in the manner stipulated by this Law;

9) **Direct participation in the statutory capital**¹ – an owner of shares, stocks or shares of stock in the statutory capital of a legal entity;

10) **Indirect participation in the statutory capital** – under this Law, indirect participation in the statutory capital shall mean such participation in the statutory capital of a legal entity, whereby:

a. a participant does not have a holding (share, stock or share of stock) in the statutory capital of the legal entity, or has a non-voting holding, yet, it can, directly or indirectly, through its economic reputation and standing, predetermine the decisions of the management bodies of the legal entity or exercise significant influence over their decision-making (enforcement) or predetermine the directions or spheres of the activities of the given legal entity,

b. a participant does not have a holding (share, stock or share of stock) in the statutory capital of the legal entity or has non-voting holding, yet, it can predetermine decisions of the management bodies of the particular legal entity or exercise significant influence over their decision-making (enforcement) or

¹ Translator's note: Չնայած այստեղ և հաջորդ հասկացությունում ըստ էության սահմանվում է «ուղղակի /անուղղակի նշանակալից մասնակցությունը», որը թարգմանվում է որպես «**direct/indirect qualifying holding**», սակայն, չեմ կարող այդպես թարգմանել, քանի որ չի օգտագործվում «**նշանակալից (qualifying) մասնակցություն**» արտահայտությունը:

predetermine the directions, spheres of the activities of the given legal entity by the virtue of the right of claim towards the legal entity;

c. a participant holds 50 percent or more of the voting shares in the statutory capital of a legal entity having a participation in the statutory capital of the legal entity,

d. a participant has a holding in the statutory capital of a legal entity having a participation in the statutory capital of the legal entity, and it can, through its economic reputation and standing, predetermine the decisions of the management body of the given legal entity, or exercise significant influence over their decision-making (enforcement), or predetermine the directions, spheres of the activities of the particular legal entity.

Article 4. Principles and Objectives of State Support to IT Sector

1. The state support to the IT sector shall be realized based on the principles of private-public partnership (PPP) and publicity.

2. The objectives of the state support to the IT sector shall be as follows:

- 1) to increase competitiveness,
- 2) to attract skilful labour and to enhance skills continuously through ensuring competitive salaries (incomes),
- 3) to implement scientific-research works and to assist in the establishment of start-ups through grant projects, and
- 4) to promote and attract venture and foreign investments.

Article 5. Subjects of State Support to IT sector

1. Within the scope of this Law, the following economic entities shall be entitled to receive state support:

- 1) start-up economic entities (start-ups) performing entrepreneurial activities in the IT sector;
- 2) economic entities engaged in activities of introducing innovative and modern information technologies;
- 3) infrastructures promoting the development of the IT sector, including techno parks, techno centers, accelerators, incubators, and
- 4) economic entities implementing educational/training and research projects in the IT sector.

Article 6. Implementation of State Support to IT Sector

1. For provision of favourable financing conditions, attraction of investments and promotion of external economic activity, the state support to economic entities performing activities in the IT sector, shall be implemented by a program (henceforth “the Program”). The state administration body authorized by the Government of the Republic of Armenia shall develop the Program, which shall be approved by the Government of the Republic of Armenia. The Program shall be developed in accordance with the principles and objectives of the state support stipulated by this Law. The Program shall be implemented in the manner defined by the Government of the Republic of Armenia.

2. Tax incentives shall be provided to certified persons, at the size defined by the law of the Republic of Armenia regulating tax relations and in the period prescribed by this Law.

Article 7. Administrative Register of IT Sector

1. With the view of implementing branch recording for the development of the IT sector, the state administration body authorized by the RA Government to be responsible for the IT sector development shall maintain an administrative register of the IT sector (hereinafter referred to as “the Administrative Register”).

2. The Administrative Register shall comprise a database of regularly updated information about registered (recorded) economic entities, including actual location of an economic entity or business address of its executive management body, main and secondary types of activity, number of staff, foreign participation, products and services, import and export activities, investments (including foreign), revenues and other necessary data/indicators.

3. The Administrative Register of the IT sector shall be created based on information provided by and exchanged between tax authorities, State Register for Legal Entities, the state administration body authorized by the RA Government to be responsible for the IT sector development, as well as based on reports filed by the economic entities.

4. The state administration body authorized by the RA Government to be responsible for the IT sector development shall define forms of reports of economic entities and the procedure of filing thereof.

5. Depending on the nature of collected information, reports shall be submitted on monthly, quarterly or semi-annual periodicity as determined by state administration body authorized by the Government of RA to be responsible for the IT sector development.

Article 8. Requirements to Certified Persons and Those Undergoing the Certification Process

1. Certification shall be performed on voluntary basis.

1.1. The following economic entities may apply for certification:

1) commercial organizations registered in the Republic of Armenia, other than branches and representations of business partnerships, subsidiary companies and foreign legal entities, and

2) individual entrepreneurs recorded in the Republic of Armenia.

2. Economic entities applying for certification shall meet the following requirements:

1) have been established exclusively for involvement in the types of activity stipulated by Article 3.1(2) of the Law,

2) have not been established as a result of the reorganization of another economic entity;

3) not any of its shareholders (participants) is a shareholder of or a participant in an IT sector company that has been liquidated after this Law enters into force, or is an individual entrepreneur that has terminated his/her activity (has been removed from the state recording);

4) any of its shareholders (participants) or an individual entrepreneur having applied for certification is not a shareholder or a participant of another economic entity under bankruptcy procedure, and

5) the number of employees is less than 30.

3. The alienation of fixed assets, as well as the concluding of joint venture agreement during the period of validity of the certificate shall be deemed an activity not envisaged under the types of activity under Article 3.1(2) of the Law.

4. The number of employees stipulated by Article 8.2(2) hereinabove shall not exceed 30 in the validity period of the certificate.

5. Certified persons:

1) shall comply with requirements stipulated by parts 2-4 of this Article during the validity period of the certificate, and

2) shall not alienate results of activities stipulated by Article 3.1(2) hereof to other RA resident economic entities engaged in the IT sector, except for cases of implementing educational programs.

(Article 8 supplemented and edited by HO-47-N, dated 01.03.17)

Article 9. Certification Commission

1. Certification shall be implemented by the Certification Commission (the Commission) formed by the decision of the RA Government.

The Commission shall be comprised of seven individuals, including:

1) the representative of the Staff of the RA Government;

2) the representative of the state administration body authorized by the RA Government to be responsible for the IT sector development;

3) the representative of the state administration body authorized by the RA Government to elaborate and implement the RA Government policies in the areas of formation of state revenues and administration of state finances;

3.1) the representative of the state administration body authorized by the RA Government to implement administration in the areas of tax and customs, and

4) three representative of unions (associations) and non commercial organizations representing interests of organizations performing activities in the IT sector;

The procedure of and conditions for including representatives of unions (associations) and non commercial organizations representing interests of organizations performing activities in the IT sector shall be defined by the decision of the RA Government.

2. A session of the Commission shall be deemed valid if attended by all members of the Commission, and in the event of absence of any of the Commission members, the session shall be deemed not held and a new session shall be called. Commission members may authorize, in the manner provided by law, other persons to attend a session of the Commission on their behalf, yet, if a Commission member misses two consecutive sessions and fails to authorize another person to attend the session on his behalf, the specified circumstance shall not serve as a ground for considering the session not held.

3. Decision of the Commission shall be adopted by a simple majority of votes.

4. Minutes of each session of the Commission shall be taken. Commission members having participated in the session shall sign minutes of the session.

5. The Secretariat of the Commission shall organize the works of calling sessions of the Commission and other current works. The Secretariat of the Commission shall be the state administration body authorized by the Government of RA to be responsible for the IT sector development.

6. The Commission shall adopt a decision on granting or denying the certificate within a 30-day period following the date of receiving an application for provision of a certificate (*application for certification*).²

(Article 9 amended and restated by HO-47-N of 01.03.17)

Article 10. Powers of the Commission

1. The Commission shall:

- 1) review and discuss submitted applications for certification;
- 2) issue a decision on granting, amending or denying the certificate, in accordance with the procedure stipulated by law, and
- 3) submit recommendations to the RA Government on organization of the certification process, as well as on improvements of the legislation promoting the development of the IT sector.

Article 11. Granting and Amending of the Certificate

1. The certification shall be performed in accordance with the procedure defined by the RA Government.

2. Economic entities meeting the requirements prescribed by Article 8.2 of this Law shall apply for certification within 3 months after the state registration.

3. From November 1 to December 1 of each financial year, the certified person shall submit, in accordance with the established procedure and form, to the RA Government a declaration on meeting the requirements to certified persons defined by this Law.

4. To obtain a certificate, economic entities meeting the requirements stipulated by Article 8.2 of this Law shall submit:

- 1) an application for obtaining a certificate;
- 2) the state registration number of the legal entity;
- 3) detailed description of the activities and directions of the economic entities, in accordance with the types of activity stipulated by Article 3.1(2) of this Law;
- 4) a declaration stating that the economic entity shall be engaged solely in the types of activity stipulated by Article 3.1(2) of this Law in the period of enjoying incentives provided by the certificate;
- 5) a statement on the number of staff, job titles and first names and surnames of employees;
- 6) a declaration stating that the establishment of the economic entity is not a ground for liquidation or reorganization of another economic entity, and the economic entity is not a subsidiary of another company, and
- 7) information about persons having direct or indirect participation in the statutory capital of the economic entity applying for certification, submitted in accordance with the form and procedure established by the RA Government.

² Translators note: Օրենքում նույն «դիմում» հասկացությունը նշվում է **5 տարբեր** արտահայտություններով՝ (1) հավաստագրի տրամադրման մասին դիմում (հոդված 9.6), (2) հավաստագրի տրամադրման դիմում (հոդված 12.1), (3) դիմում հավաստագիր ստանալու մասին (հոդված 11.4.1), (4) հավաստագիր ստանալու համար դիմում (հոդված 12.1.2) և (5) հավաստագրման համար ներկայացված դիմումներ (հոդված 10.1.1): Թարգմանում եմ այնպես, ինչպես գրված է, սակայն, եթե որոշեք փոխել, նախընտրելի տարբերակը՝ **application for certification**.

5. In the case when the certified person decides to become involved in the type of activity not declared during the certification yet envisaged under the types of activity stipulated by this Law, the certified person shall apply to the Commission, in accordance with the procedure defined by Article 11.4 hereinabove, to seek making of an amendment in the certificate.

(Article 11 amended by HO-47-N of 01.03.17)

Article 12. Denying Provision of the Certificate

1. The application for provision of a certificate shall be denied on the grounds as follows:

- 1) the economic entity having applied for certification does not comply with the requirements to economic entities entitled to receive a certificate as prescribed by this Law;
- 2) the application to receive a certificate has been submitted in violation of the period stipulated by Article 11.2 of this Law;
- 3) documents submitted for certification are incomplete, untrustworthy and fail to comply with the requirements of this Law and other normative legal acts;
- 4) persons having direct or indirect participation in the statutory capital of the economic entity applying for certification have previously violated the requirements of this Law;
- 5) any of the persons having direct or indirect participation in the statutory capital of the economic entity applying for certification previously has direct or indirect participation in the statutory capital of another legal entity that had violated requirements of this Law, and
- 6) the certificate granted to the economic entity previously has been withdrawn on the grounds envisaged by Articles 13.1(4) and 13.1(5).

1.1. The following shall not serve as grounds for denial of an application to provide a certificate:

- 1) a shareholder or a participant of the economic entity having applied for certification is a shareholder (participant) or an employee of another economic entity, and
- 2) he/she holds a part-time job with the economic entity having applied for certification or with other company.

2. In the case of occurrence of any of the grounds for denial stipulated by Article 12.1(3) hereinabove, the Commission shall suspend the issuance of the final decision and submit, through the Secretariat, to the economic entity a recommendation in writing on elimination of flaws and inconsistencies contained in the documents. The application shall be denied, if the economic entity fails to eliminate flaws and inconsistencies within five business days upon receiving the recommendation of the Secretariat of the Commission.

(Article 12 amended by HO-47-N of 01.03.17)

Article 13. Withdrawal of the Certificate

1. The certificate shall be withdrawn on the grounds as follows:

- 1) the period of validity of the certificate has expired;
- 2) the economic entity has filed an application requesting to withdraw the certificate;
- 3) the requirements stipulated by Article 8.5 have been violated during the period of validity of the certificate;
- 4) the economic entity has violated the requirements of Article 11.5 of the Law, and

- 5) the economic entity has filed untrustworthy information in the application package for certification;
2. In the cases stipulated by points 2-5 of Article 13.1 hereinabove, the certificate shall be withdrawn by the decision of the Commission.

Article 14. Submission of Reports by Certified Persons

1. Before the 20th of the month following each half year, the certified persons shall submit semi-annual reports to the Commission on results received during the validity period of the certificate, including also information required under the procedure defined by the RA Government.

2. In the case of withdrawing the certificate in the manner provided by Article 13 of this Law, the certified persons shall submit the report stipulated by Article 14.1 hereinabove within a 15-day period upon receiving the decision of the Commission on withdrawal of the certificate, and in the cases stipulated by Article 13.1(2), such report shall be filed together with the application on withdrawal of the certificate.

(Article 14 supplemented by HO-47-N of 01.03.17)

Article 15. Publicity

1. The list of certified persons shall be published on the official website of the state administration body authorized by the RA Government to be responsible for the IT sector development.

2. Company names of economic entities having violated requirements of this Law, as well as names of persons having direct or indirect participation in the statutory capital of concerned economic entities, shall be published on the official website of the state administration body authorized by the RA Government to be responsible for the IT sector development. *(The sentenced deleted by HO-47-N of 01.03.17)*

(Article 15 amended by HO-47-N of 01.03.17)

Article 16. Provision of Information

1. The body performing the registration (recording) of legal entities and individual entrepreneurs shall submit, each quarter, information about the state registration of economic entities performing activities in the IT sector to the state administration body authorized by the RA Government to be responsible for the IT sector development, in accordance with the procedure defined by the RA Government.

2. Tax authorities shall submit, each quarter, information under their possession specified in Article 7.2 of this Law to the state administration body authorized by the RA Government to be responsible for the IT sector development, in accordance with the procedure defined by the RA Government.

Article 17. Liability for Violation of Provisions of this Law

1. Violation of the requirements of this Law shall entail liability stipulated by law.

2. In the case of withdrawal of the certificate as a result of violation of this Law, the amounts received yet not paid in the effective period of the certificate due to enjoying tax incentives, as well as fines and penalties accrued thereof under the law regulating tax relations, shall be paid to the state budget.

Article 18. Transitional Provisions

1. This Law shall enter into force on the tenth day following the day of the official promulgation, with the exception of Article 7 of the Law, which shall enter into force from January 1, 2016.

2. The deadline for submission of applications for certification in the manner stipulated by this Law shall be December 1, 2017.

3. Tax incentives provided under this Law shall remain effective for a 5-year period.

(Article 18 amended by HO-47-N of 01.03.17)

President of the Republic of Armenia

S. Sargsyan

December 30, 2014

Yerevan

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