

LAW ON AUDIT OF THE REPUBLIC OF TAJIKISTAN

This Law shall regulate general, legal, institutional frameworks and auditing process incurred between public authorities, physical and legal entities, auditors, and audit companies.

Article 1. Auditing

1. Auditing, audit is an entrepreneurial activity on independent inspection of books and accounting (financial) statements of individual businesses and legal entities (hereafter referred to as audited entities).

2. Auditing and audit shall not include inspection of budget financed institutions.

3. Audit inspections shall not preclude arrangements related to state finance control of accounting (financial) statements subject to credibility performed by authorized public authorities in compliance with the legislation of the Republic of Tajikistan.

4. Aim of auditing is to demonstrate an opinion on credibility and precision ratio of accounting (financial) statements enabling the user of this data make proper conclusions on the results of economic performance, financial and property status of audited entities.

5. Individual auditors exercising auditing activities without the status of a legal entity and auditing agency are eligible to provide following audit related services:

- initiation, recovery and administration of accounts, drafting of accounting (financial) statements, accounting consultations;
- tax projection, tax consultations
- assessment of financial and economic activities of legal entities, individual businesses, economic and financial counseling;
- governance level counseling including the area of internal structural reforms of organizations;
- computerization of accounting and introduction of IT;
- property appraisal;
- development and analyses of investment projects, design of business plans;
- implementation of research and experimental works in areas, related to auditing and dissemination of its results;
- training of specialists in areas, related to auditing under the procedures stipulated in the legislation of the Republic of Tajikistan;
- other services related to auditing.

6. Individual auditors and auditing firms are restricted to carry out entrepreneurial activity other than auditing and related services.

Article 2. Legislation of the Republic of Tajikistan on auditing

Legislation of the Republic of Tajikistan on auditing is based on the Constitution of the Republic of Tajikistan and comprises this Law and other normative legal acts recognized by the Republic of Tajikistan.

Article 3. Processing audit license

Processing license for auditing shall be exercised based on the Law of the Republic of Tajikistan on “Licensing of certain types of activities”.

Article 4. Authorized audit regulating body

1. Authorized state audit regulating body shall be determined by the Government of the Republic of Tajikistan that includes following responsibilities:

- to adopt within its competence normative acts that are envisaged to regulate auditing;
- to develop auditing standards;
- to make sure that auditing agencies and individual auditors follow stipulations of the license;
- to monitor observation of auditing standards by auditing agencies and individual auditors;
- to determine the size and procedure of reports to be submitted to an authorized body by auditing agencies and individual auditors;
- to manage state register of auditors with qualification certificates and licenses.

Article 5. Principal provisions of auditing

Principal provisions of auditing include:

- Independence;
- Objectiveness;
- Professional competence;
- Confidentiality of audit results.

Article 6. Auditor

1. Auditor is a physical entity that meets qualification requirements established by the state audit regulating authority (hereafter referred to as an authorized body), entitled by qualification certificate of the auditor.

2. Auditor is eligible to exercise auditing in capacity of an individual auditor or an employee of the auditing agency involved under employment contract and without the status of legal entity.

Article 7. Types of audit

1. Auditing includes several types of mandatory and initiative inspection.
2. Mandatory audit is an annual inspection of books and records (financial) of legal entities. Mandatory audit is conducted by audit agencies
3. Mandatory audit is referred to:
 - Banks;
 - Non-banking financial organizations implementing certain types of banking operations and companies operating in stock markets;
 - Open stock-holding companies;
 - Insurance companies;
 - Public funds;
 - Natural monopoly agents;
 - Stock and commodity exchanges, investment funds and public unitary companies eligible of conducting economic activity.
4. Initiative audit is carried out upon initiative of an audited entity based on specific objectives, terms, and scopes of specific inspections envisaged by the Audit Agreement between audited company and individual auditor or audit agency.
5. Auditing practices of audited entities whose accounting (financial) statements contain classified information related to national security shall be carried out in conformity with the legislation of the Republic of Tajikistan.

Article 8. Auditing agency

1. Auditing agency is a commercial organization exercising auditing practices and audit related services.
2. Auditing agency can be established in any form of incorporation if its organizational and legal structure is in line with commercial organizations, except for the open joint-stock company, producer's cooperative and public unitary company.
3. Auditing agency shall exercise audit practices upon obtaining the license in a manner, stipulated by the Law of the Republic of Tajikistan on «Licensing of certain types of activities».
4. Foreign physical and legal entities based on the stipulations of this Law can establish auditing agencies in the Republic of Tajikistan and practice auditing in capacity of individual auditors.
5. Personnel of the auditing agency shall comprise minimum 70 % of citizens of the Republic of Tajikistan. In the event if head of the auditing agency is a foreign citizen – no less than 75 % of employees shall be citizens of the Republic of Tajikistan.

6. Out of total number of personnel of the auditing agency a number of licensed auditors shall not be less than 70 %. Auditing agencies can employ for the position of an assistant to the auditor any individuals with no qualification certificate (and license) for auditing.

Article 9. Rights of individual auditors and audit agencies

1. In conducting audit practices individual auditors and audit agencies shall have the right to:

- determine the form and method of audit at its own discretion;
- inspect on a full-scale basis accounting records as regards financial and economic activity of the audited company, as well as actual available property registered in the records;
- inquire from audited entity officials, in writing and verbally, all necessary data, for the purposes of audit;
- decline the audit or expressing own opinion in audit findings on credibility of accounting (financial) statements in case of failure to submit all necessary documentation by the audited company and disclosing in the course of the audit such circumstances that have or can have essential impact on the opinion of the auditing agency or individual auditor on appraising credibility ratio of accounting (financial) statements of the audited entity;
- involve contractually relevant specialists except for persons employed in the facilities under consideration or immediately related to senior management (owners) of entities or financially concerned;
- exercise other rights implied by the nature of legal relations under the Audit Agreements in line with the legislation of the Republic of Tajikistan.

2. Public authorities, audited entities and other third parties shall not interfere with activities of individual auditors and auditing agencies.

Article 10. Liabilities of individual auditors and auditing agencies

In conducting audit practices, individual auditors and auditing agencies are liable to:

- exercise audits on the basis of the legislation of the Republic of Tajikistan and this Law;
- submit upon request of the audited entity the data on legislation requirements of the Republic of Tajikistan related to auditing, as well as other normative and legal acts of the Republic of Tajikistan that observations and findings of the individual auditor and auditing agency are based on;

- within the dates established by the Audit Agreement audit findings shall be passed on to audited entity or individuals involved in concluding the Audit Agreement;

- ensure safety of documents received and used in the course of audit, non disclosure of their content without consent of the audited entity or individuals that concluded Audit Agreement, except for cases envisaged by the legislation of the Republic of Tajikistan;

- exercise other liabilities implied by the nature of legal relations under the Audit Agreement, and in line with the legislation of the Republic of Tajikistan.

Article 11. Rights and liabilities of audited entities and/ or entities that concluded agreement on audits

1. In conducting audit practices audited entities and/ or entities that concluded agreement on audits shall have the right to:

- obtain from individual auditor or auditing agency any information on existing legislations and normative acts of the Republic of Tajikistan that conclusions made by individual auditors and auditing agencies are based on;

- obtain from individual auditor and auditing agency an audit opinion within the terms established by the audit agreement;

- exercise other rights resulted from the nature of legal relations stipulated in the audit agreement and consistent with the legislation of the Republic of Tajikistan.

2. In conducting audit inspections audited entities or entities that concluded audit agreement shall be liable for:

- concluding agreements with audit agencies on mandatory audit practices at terms stipulated by normative and legal acts of an authorized body;

- providing conditions to individual auditors and auditing agencies for timely and comprehensive audit performance, cooperating with them, supplying them information and documentation needed for audit, ensure exhaustive interpretation and confirmation upon verbal or written request, and inquire necessary data for the audit from third parties;

- avoiding to take any actions aimed at restricting the range of issues subject to clarification in conducting audit practices;

- in a timely manner removing limitations defined in the course of audit in accounting (financial) statements;

- timely compensating individual auditors and auditing agencies for their service under the audit agreement, including cases when audit findings of audit opinion are not consistent with the position of the audited agency and in those cases when conclusions of audit opinion are not concurrent with the position of

audited agency as well as in the event of inadequate performance of services by auditors due to reasons beyond their control;

- exercising other responsibilities derived from the nature of legal relations envisaged in the audit agreement and consistent with the legislation of the Republic of Tajikistan.

3. Actual audit does not exempt audited entities from liability for inconsistency of accounting (financial) statements submitted with the legislation of the Republic of Tajikistan.

Article 12. Auditing standards

1. Auditing standards – single audit procedure requirements, standards for developing audit (opinions) quality assessments and other associated services.

2. Auditing standards are approved by the Government of the Republic of Tajikistan.

Article 13. Auditing secrecy

1. Individual auditors and auditing agencies shall be liable for maintaining confidentiality of operations of audited entities and entities supplying audit related services.

2. Individual auditors and auditing agencies shall be liable for ensuring confidentiality of information and documents provided or developed in the course of auditing and have no rights of communicating information and documents or their copies to third parties or disclosing them without written consent of audited entity except for the cases envisaged by this Law and other laws of the Republic of Tajikistan.

3. Authorized bodies and other entities having access to information classified as auditing secrecy under this Law and other laws of the Republic of Tajikistan shall be liable for maintaining confidentiality of such data.

4. In the event of disclosure of information classified as auditing secrecy to individual auditors and auditing agencies, authorized bodies, other persons having had access to confidential information, under this Law and other normative acts of the Republic of Tajikistan the audited agency or an entity that was rendered audit associated services, as well as individual auditors and auditing agencies have the right to claim indemnity for losses.

Documents at the discretion of individual auditors and auditing agencies that contain information on operations of audited entity cooperating under auditing agreement, shall be supplied entirely upon decision of the court to authorized entities stipulated in the decision, or to public authorities of the Republic of Tajikistan in cases, envisaged by the legislation of the Republic of Tajikistan.

Article 14. Auditing opinion

1. Auditing opinion is a formal document designed for users of accounting (financial) statements of audited entities, consistent with auditing standards and reflecting views of individual auditors and auditing agencies on credibility of accounting (financial) statements of audited entity and compliance of account management with the legislation of the republic of Tajikistan.

2. The form, content, and procedure of providing audit opinion shall be determined on the ground of auditing standards and other normative acts of the authorized body.

Article 15. Independence of individual auditors and auditing agencies

1. Auditing cannot be exercised in the following cases:

- by auditors who are founders (or members) of audited entities, their supervisors, accountants or other persons in charge of organizing and managing accounts and drafting accounting (financial) statements;

- auditors closely related to founders (or members) of audited entities, to their officials, accountants, and other persons in charge of organizing and managing accounts, and drafting accounting (financial) statements (parents, spouses, brothers, sisters, children, and brothers, sisters, parents and children of spouses);

- auditing agencies, their supervisors and other officials that are founders, accountants and other persons in charge of organizing and managing accounts and drafting accounting (financial) statements;

- auditing agencies, their supervisors and other officials that are in close relationship with audited entities (parents, spouses, brothers, sisters, children, and brothers, sisters, parents and children of spouses), their founders (members), accountants and other persons in charge of organizing and managing accounts and drafting accounting (financial) statements;

- auditing agencies as regards audited entities that are their founders (members), as regards audited agencies that have those auditing agencies as their founders (members), as regards sister companies, branches and missions of above audited entities, and as regards agencies having things in common with this auditing agency of the founder (member);

- individual auditors and auditing agencies that have been providing during 3 years prior to the audit services related to recovery and management of accounts, accounting (financial) statements to legal and physical entities – with respect to those entities

2. Procedure of making payments and compensation rate of individual auditors and auditing agencies for their services (including mandatory audit) is stipulated by audit agreements and cannot be bound to execute any requirement of audited entities as regards conclusions that can be resulted from the audit.

Article 16. Auditing insurance

1. Individual auditors and auditing agencies shall be bound to conclude insurance policy of civil liability on liabilities resulted from infliction of damage (infringement of contact provisions) in exercising the audit.

2. Civil liability insurance of individual auditors and auditing agencies shall be exercised based on procedures, established by the legislation of the Republic of Tajikistan.

Article 17. Performance monitoring of individual auditors and auditing agencies

1. Individual auditors and auditing agencies shall be bound to establish and follow by-laws of on-going audits.

2. Quality control system of individual auditors and auditing agencies by external auditors shall be established by an authorized body that can conducts such audits based on its own resources and delegate the right of performing such audits to professional auditing agencies (associations).

3. Avoidance of external performance audit or failure to submit auditors all necessary documentation relevant to the audit or other requested information can be the reason for terminating the audit license of individual auditors (auditing agency director).

4. In the event of systematic irregularities detected in the course of external performance audit of individual auditors and auditing agencies as regards compliance with the stipulations of legal documents or auditing standards, auditors shall be under obligation to communicate such facts to an authorized body. Persons responsible for committing such irregularities can be kept accountable by this Law to the extent of terminating their qualification certificate and suspending their auditing license.

Article 18. Auditing certificate

Audit certifying procedure shall be established by the Government of the Republic of Tajikistan.

Article 19. Reasons and procedures of qualification certificate termination of the auditor

1. Qualification certificate of the auditor shall be terminated in the events, if:

- qualification certificate was obtained by the auditor based on false documents;

- in force is court's verdict stipulating persecution in terms of deprivation of right to exercise audit for a certain period of time;

- requirements of Articles 13 and 15 of this Law are not met;
- requirements stipulated by the legislation of the Republic of Tajikistan or auditing standards are not complied with by an auditor in the course of exercising an audit;
- established is a fact of signing an audit opinion by the auditor without conducting an audit;
- over two subsequent calendar years the auditor was not exercising an audit

2. Decision on nullification of auditor's qualification certificate shall be made by the authorized body. An authorized body shall take a reasoned decision on nullification of auditor's qualification certificate.

3. An individual whose qualification certificate is nullified shall have the right to appeal to a court against a decision of the authorized body on nullification of auditor's qualification certificate, within 3 months from the date of receiving a decision on nullification of auditor's qualification certificate.

4. An entity whose qualification certificate was nullified due to reasons stipulated in paragraphs 1, 3, 5 of Part 1 of this Article shall have no right to reapply for auditing certificate for three years from the date of enacting a decision on nullification of the auditor's qualification certificate.

5. An entity whose qualification certificate was nullified due to reasons stipulated in paragraph 2 of Part 1 of this Article, shall have no right to reapply for auditing certificate within a period, envisaged by enacted court's verdict.

Article 20. Professional audit associations

In order to ensure adequate conditions for the members to conduct audits, protect professional interests, individual auditors and auditing agencies can team up in professional audit agencies operating on a not-for-profit basis and established in conformity with the legislation of the Republic of Tajikistan.

Article 21. Responsibilities of individual auditors, auditing agencies and audited entities

Individual auditors, auditing agencies and audited entities shall be kept responsible for infringing in the course of the audit provisions of this Law stipulated by the legislation of the Republic of Tajikistan.

Article 22. To find null and void the Law of the Republic of Tajikistan on "Auditing"

To admit null and void the Law of the Republic of Tajikistan of 21 May 1998 “On Auditing” (Akhbori Majlisi Oli of the Republic of Tajikistan, 1998, No. 10, Article 98; 1999, No. 12, Article 303)

Article 23. Procedure of consummation of this Law

This Law shall enter into force after it is officially published.

President
Republic of Tajikistan E. Rahmonov
Dushanbe, 3 March 2006
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