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Accounting outsourcing in Russian economic practice

***Abstract.** The changes that occurred in the Russian economy in the 1990s gave rise to the development of economic activity undertaken by private companies, which made it necessary to introduce far-reaching amendments to the economic law, including accounting law. One of the major changes is represented by the possibility for the management of a business entity, to eliminate the position of a chief accountant from its organisational structure, or even discontinuing the employment of accountants, and outsourcing the bookkeeping to third parties.*

Despite the processes of globalisation and their marked influence on Russian accounting law, it should still be taken into account that this law may differ from the solutions adopted in other countries or in international standards. The purpose of the article is to identify the solutions currently adopted in Russian economic practice with regard to the outsourcing of accounting and the applicable legal solutions.

The applied research methods included a descriptive analysis and deduction. Russian-language literature and legislation formed the subject of the research.

Keywords: outsourcing, accounting, law

Introduction

At present, the development of the services sector, services for business in particular, is one of the commonly prevailing worldwide tendencies. This tendency

occurs also in Russia, with the very strong development of this part of the sector which includes the outsourcing of accounting services. The said development can be observed on both the local Russian market and, for example, in Poland, because increasingly often entities conducting their activity within the territory of the Russian Federation become the customers of Polish companies that provide accounting services.

The outsourcing of accounting in the Russian economic practice entails, as in other countries, the occurrence of numerous types of problems, including, for example, the problem consisting in the lack of nomenclature for this type of contracts in the economic law. The definition of responsibility for the accounting of a business entity in the Russian accounting law poses another problem, since, despite the 20 years of transformation in the Russian economy and amendments introduced to the above-mentioned law during that time, under the influence of international standards and solutions adopted worldwide, it has to be taken into account that in many respects significant differences still occur.

The purpose of the article is to identify the solutions currently adopted in the Russian economic practice for the outsourcing of accounting and the applicable legal solutions.

The applied research methods included a descriptive analysis and deduction. The Russian-language literature and legislation formed the subject of the research.

1. Accounting outsourcing market in Russia

The authors of both scientific and popular science publications emphasise that the outsourcing of business services in Russia has been developing for several years, becoming a mass phenomenon [Новикова 2010]. Functions that are most often subject to outsourcing include:

- IT services,
- keeping books of accounts and tax records and drawing up financial statements,
- human resources search and selection,
- temporary staffing services,
- PR services and advertising,
- office cleaning,
- security services,
- catering,

- transport services,
- administrative services.¹

Therefore, it can be stated that the range of services for business most often used by economic entities is similar to that encountered in the Polish conditions [Koczar 2014: 110].

It should be noted that from among all services for business the accounting services develop fastest, starting from the 90s.² Some sources suggest that in 2009-2014 profits earned by this service segment rose by 2.5 times,³ whereas according to another source a twofold or threefold increase occurred in 2011 only [Тохчукова].

In the last years (2013-2014) accounting outsourcing services were being delivered most often to entities involved in trading, oil and gas processing, food production and construction, while state and educational institutions made use of these services to the least extent.⁴

The largest number of entities use the services of keeping books of accounts and tax records (42-47% in the years 2013-2014), payroll processing (32-27% in the years 2013-2014), and drawing up of financial statements: according to the IFRS (10-9%) and according to the Russian national standards (7-6%).⁵

It should be emphasised that the majority of accessible statistical data are based on the information made available by rating agencies, because Rosstat, the official statistics authority of the Russian Federation, not only does not investigate the development of the accounting services market, but it does not even examine services for business as a segment (the data made available by Rosstat concern services as a sector, taking specifically into account, in some cases, the so-called services for individuals). The associations or institutes of accountants and auditors functioning in Russia to date have not conducted any relevant research either.

¹ www.audit-it.ru/articles/account/buhaccounting/a6/44036.html [1.01.2015]; www.klerk.ru/buh/articles/65975 [1.01.2015].

² www.gaap.ru/articles/Bukhgalterskiy_outsorsing_i_konsalting_2013_Reyting_kompaniy [17.10.2015].

³ www.raexpert.ru/ratings/outsourcing/2014 [17.10.2015].

⁴ <http://raexpert.ru/ratings/outsourcing/2014/>, [17.10.2015]; <http://otchetonline.ru/pomoshh-buxgalteru/buhuchet/40856-reyting-kompaniy-v-oblasti-outsorsinga-uchetnyh-funkciy-za-2013-god-ot-quot-ekspert-ra-quot.html>, [17.10.2015]

⁵ <http://raexpert.ru/ratings/outsourcing/2014> [17.10.2015]; <http://otchetonline.ru/pomoshh-buxgalteru/buhuchet/40856-reyting-kompaniy-v-oblasti-outsorsinga-uchetnyh-funkciy-za-2013-god-ot-quot-ekspert-ra-quot.html> [17.10.2015]

2. Legal bases for the outsourcing of accounting in the Russian economic law

The Russian accounting law is a four-level system, including legal regulations of varying importance and effect. The first level comprises, among others, the accounting law, which provides the basis for contracting the bookkeeping and reporting activities out.⁶ The possibility of making a decision to outsource accounting was and is offered to the manager of a business entity by the accounting law, both the previous one⁷ and the one currently in effect.⁸ In the light of the above law, the manager, having analysed the volume and the degree of complexity of the accounting work, may decide to:

- organise an accounting department as a separate element of an entity's organisational structure, reporting to a chief accountant,
- create the position of accountant,
- contract bookkeeping out (under an outsourcing contract) to the so-called accounting centre or a third-party entity that provides services of this type or place an order for bookkeeping with an external specialist accountant,
- do the bookkeeping himself,⁹

which, under the past conditions, both at the time of centrally planned economy and when a market economy started to be introduced, was not possible.

The lending institutions are the only entities that may not choose not to employ a chief accountant.

The information about the outsourcing of accounting has to be included in the accounting policy applicable in a given accounting year, and if the decision to outsource is taken during the accounting year, the entity is obliged to modify its accounting policy accordingly.¹⁰

It should be highlighted that neither the accounting law nor the provisions on granting licences for business activity stipulate for entities specialising in the provision of accounting services any obligations related to the obtaining of licences for such activity or impose on prospective service providers, apart from few exceptions, any formal requirements concerning education or practical experience.¹¹ These exceptions include open joint stock companies (except for

⁶ More details about the structure of the Russian accounting law: Koczar 2012: 93-94.

⁷ Федеральный закон „О бухгалтерском учете” от 21 ноября 1996 N 129-ФЗ.

⁸ Федеральный закон „О бухгалтерском учете” от 6.12.2011 N 402-ФЗ.

⁹ Ibidem.

¹⁰ Положение по бухгалтерскому учету „Учетная политика организации” ПБУ 1/98, утвержденного приказом Минфина России от 09.12.1998 N 60н.

¹¹ Письмо Минфина России от 1.08.2007 N 03-11-04/2/193.

lending institutions), insurance companies and non-state pension funds, equity investment funds, managers of equity investment funds, other business entities whose securities are admitted to trading on stock exchanges (except for lending institutions), managing bodies of state extra-budgetary funds and managing bodies of state extra-budgetary local funds. A chief accountant or a person keeping books of accounts of the entities listed hereinabove has to:¹²

- hold a degree in higher education,¹³
- have sufficient job seniority related to bookkeeping, the drawing up of financial statements or auditing, i.e. not fewer than three years over the last five calendar years, and in the case of persons who do not have a degree in accounting and auditing their seniority may not be shorter than five years over the last seven calendar years,¹⁴
- have no record of conviction for white-collar crime.

Other legal acts, pursuant to the accounting law, may impose additional requirements for chief accountants or other persons keeping books of accounts, an example of which is provided by the requirements placed on chief accountants of lending and financial (non-lending) institutions by the Bank of Russia (central bank of the Russian Federation).¹⁵

Thus, under the legal regulations, the principal may enter into a contract on the outsourcing of bookkeeping with a natural person, provided that such person fulfils the requirements specified hereinabove, whereas the conclusion of an outsourcing contract with a legal person is possible if it employs at least one person holding the above qualifications.

Also the tax law recognises the outsourcing of accounting, providing for the possibility of a business entity being represented by its duly authorised attorney, holding the relevant powers, who is entitled to sign tax returns.¹⁶

It can be concluded that with regard to entering into outsourcing contracts there are only minor limitations arising from the law in force.

¹² Федеральный закон о внесении изменений в отдельные законодательные акты Российской Федерации в связи с передачей Центральному Банку Российской Федерации полномочий по регулированию, контролю и надзору в сфере финансовых рынков от 23.07.2013 N 251-ФЗ.

¹³ Федеральный закон о внесении изменений в отдельные законодательные акты Российской Федерации и признании утратившим силу законодательных актов (отдельных положений законодательных актов) Российской Федерации в связи с принятием федерального закона „Об образовании в Российской Федерации” от 2.07.2013 N 185-ФЗ.

¹⁴ Ibidem.

¹⁵ Op. cit. Федеральный закон... от 23.07.2013 N 251-ФЗ.

¹⁶ Налоговый кодекс Российской Федерации, Часть 1 от 31.07.1998 N 146-ФЗ.

3. Responsibility for accounting in the Russian accounting law

The outsourcing of accounting entails the necessity of identifying the responsibility of entities and persons involved with such organisation of accounting.

By definition, the term “responsibility” means “a moral or legal obligation of being accountable for one’s own or somebody else’s acts or the assumption of an obligation to take care of someone or something”.¹⁷ The adjective “responsible” describes the quality of having a sense of accountability, being ready to accept the consequences of one’s acts or behaviour; being obliged to take care of something or being accountable for doing something [Słownik 1995: 443]. In each case when responsibility is defined both its object (being responsible for what?) and subject (who is responsible?) have to be specified.

At the time of centrally planned economy both the manager of an economic entity and its chief accountant were appointed to these positions by superior authorities. It was an obvious consequence of the then prevailing property relationship – the state was the only owner of assets, the investor and, thus, the main recipient of the information from the accounting system of each economic entity. The main assumption underlying the design of the accounting law was the assurance of the maximum control over socialist assets. It should be emphasised that the responsibility for the entity’s accounting did not rest on its manager alone, but it was shared between its manager and chief accountant.

From the perspective of the solutions currently adopted worldwide, the division of responsibility for the entity’s accounting was incorrect, as the chief accountant had, to a considerable extent, powers to exercise control over the manager of a business entity.

The provisions currently in place concerning the responsibility for accounting are distributed among the different levels of the accounting law, and therefore, while analysing the problem, both the accounting law and the Russian accounting standards have to be taken into consideration. It should be emphasised that the Russian accounting law does not stipulate any penal, financial or administrative liability for crime related to it, referring to other legal acts on these matters. However, it has to be also pointed out that regardless of the law in force, the concluded outsourcing contract should contain the provisions on the responsibility of the contractor and the principal.

Since 2013, in the Russian Federation a new accounting law has been in effect,¹⁸ pursuant to which the responsibility for the entity’s accounting rests mainly

¹⁷ *Słownik języka polskiego*, PWN, www.sjp.pwn.pl.

¹⁸ *Op. cit.* Федеральный закон... от 6.12.2011 N 402-ФЗ.

with its manager. The manager, exclusively, is responsible for the reliable presentation of the entity's financial position, its financial result and cash flows in a given reporting period and approves (in writing) all documents forming the basis for accounting records. The manager is also obliged, if he does not keep the books of accounts himself and the financial statements are subject to audit, to organise an internal audit concerning the bookkeeping and the drawing up of financial statements. It is the task of the manager of an economic entity to organise the bookkeeping and the storage of accounting documents. However, it is not the manager but the economic entity that defines the principles, time limits and circumstances under which the stocktaking is done, except for the cases when it is required by the law. The safe conditions for the storage of accounting documents and their protection from the introduction of any changes should be ensured also by the business entity.

Pursuant to the Russian accounting law,¹⁹ in the case where accounting is outsourced, financial statements are signed by the manager of the business entity and the manager of the entity which provides accounting services, as a result of which these persons assume the responsibility for financial statements.²⁰

It should be highlighted that other provisions on responsibility contained in the accounting law apply to a chief accountant, despite that fact that, as already mentioned above, the law provides that it is possible for an economic entity to operate without creating such position in its organisational structure and to refrain from in-house bookkeeping.

Concurrently, although the accounting law does not define in detail the responsibility of an external contractor, in some cases it aligns the contractor's powers with those of a chief accountant. It applies, for example, to situations where there is a difference of opinion between the manager of an entity and the entity keeping the books of accounts and the data contained in original documents (questioned by the contractor) are booked only on the basis of a written instruction given by the manager of the entity, who at the same time becomes fully responsible for the information obtained on the basis thereof.

It can therefore be assumed that if, pursuant to the law, the manager of the entity is not held responsible for some element of accounting, as a system, but this responsibility rests with the entity's chief accountant, in the case accounting is outsourced this (and only this) responsibility is transferred to the contractor.

Taking account of the way the regulations have been formulated, the significance of an outsourcing contract has to be emphasised, as it should include the detailed rules for assuming responsibility by both parties thereto.

¹⁹ Ibidem; Положение по ведению бухгалтерского учета и бухгалтерской отчетности в Российской Федерации, утвержденного приказом Минфина России от 29.07.1998 N 34н; Положение по бухгалтерскому учету „Бухгалтерская отчетность организации” ПБУ 4/99.

²⁰ Op. cit., Положение... от 29.07.1998 N 34н, p. 38.

4. Contract on the outsourcing of accounting

From the perspective of the Russian economic law an outsourcing contract is an innominate contract, which means that there are no provisions governing its conclusion. Concurrently, pursuant to the Civil Code in effect in Russia, each concluded agreement has to be read literally, which means that with regard to any doubtful issues the provisions of a contract are analysed with respect to their mutual compliance. The intention of the parties to the contract and the purpose of its conclusion represent only the subsequent step of such analysis. Although the concept of substance over form is not unfamiliar to entities entering into a contract on the outsourcing of accounting, in practice the problem remains with the choice of the type of contract, which, as a nominate contract, can be used as a contract on the outsourcing of accounting. The parties may choose between a contract on the provision of paid services or a contract on the hire of staff.

In practice the former type of contract, drawn up on the basis of the provisions of Chapter 39 of the Civil Code of the Russian Federation, is chosen more frequently. Pursuant to the Code, one of the entities (accounting office, auditing or consulting company) undertakes to provide a specific range of accounting services and the principal undertakes to pay for such services. In the case of a contract thus concluded the acceptance of services is based on the delivery and acceptance protocol and the payment is made on the basis of an invoice.

In the latter case, one entity (contractor) makes available for hire to the principal its qualified employees, who perform the activities specified in the contract. This possibility was opened up by a letter prepared by one of the Russian ministries, in which a specimen of such contract was presented.²¹ Pursuant to it, the contractor assumes no responsibility related to the performance of the contracted services. His single duty is to enable the principal to make use of the services provided by employees holding the relevant qualifications, without taking any responsibility for the quality of such services. In the contract the fee for services is established, independent of the scale of work actually accomplished (the fee includes both the remuneration for employees and other costs, for example the ones related to the office space or business trips), which means in practice that the principal pays for the working time of the hired staff. Concurrently, such contract makes it possible to replace one employee with another, in the case the provision of services by a given specialist for some reasons cannot be continued. The fulfilment of such contract may not be confirmed in practice by means of a delivery and acceptance protocol concerning the performance of a given service.

²¹ Письмо Управления Министерства Российской Федерации по налогам и сборам по г. Москве от 20.08.2001 N 15-06/37967 о налогообложении доходов иностранных юридических лиц по соглашениям о предоставлении персонала.

Therefore, the main difference between these two types of contracts (obviously except for the fact that one of them is drawn up on the basis of the Code and the other on the basis of a specimen contract applicable in practice) consists in the fact that in the former case the contractor assumes the responsibility for the provided services and in the latter case he does not. In the case of the outsourcing of accounting it may result in numerous problems related to the necessity of establishing the penal, administrative or financial liability arising from the breach of duties by accountants or managers of the entity placing an order for the service.

Conclusion

The outsourcing of accounting services is one of the fastest developing services for business in Russia.

In accordance with the Russian accounting law it is currently possible to contract bookkeeping out by outsourcing it to third-party entities that provide this type of services or to the so-called specialist accountants, who are not the entity's employees, either.

On the basis of the review of legal acts in effect in Russia in different periods it can be stated that significant changes have occurred with regard to the responsibility for accounting resting with the managers of an entity and chief accountants, but it does not mean that accountants (even the ones working in a third-party company that provides accounting services) have been completely released from the part of responsibility for accounting.

A contract on the outsourcing of services, including accounting services, represents in the Russian law an innominate contract, as a result of which the conclusion of this type of contract necessitates the use of a contract on the provision of services or a contract on the hire of staff. The consequence of entering into the latter type of contract is the total lack of responsibility on the part of the contractor for the quality of the provided accounting services, which may have severe effects in practice.

Those who assume accounting obligations have in practice to take into account the vague definition of responsibility for accounting on the part of the entity placing an order for such service and, despite the declared compliance with the standards effective worldwide, greater responsibility for the accounting of a business entity that rests with accountants. It should be also emphasised that as a result of legal regulations a third-party entity may question decisions taken by the managers of the entity, for example with regard to the implementation and documentation of business transactions.

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Outsourcing rachunkowości w rosyjskiej praktyce gospodarczej

Streszczenie. *Zmiany, jakie zaszły w latach 90. XX w. w rosyjskiej gospodarce, umożliwiły rozwój działalności gospodarczej prowadzonej przez prywatne firmy, co spowodowało konieczność wprowadzenia daleko idących zmian prawa gospodarczego, w tym prawa bilansowego. Za jedną*

z istotniejszych należy uznać możliwość rezygnacji przez zarządzających podmiotem gospodarczym z istnienia w strukturze organizacyjnej stanowiska głównego księgowego, a nawet z zatrudniania księgowych i przekazywania prowadzenia ksiąg rachunkowych zewnętrznym podmiotom.

Pomimo procesów globalizacyjnych i ich zauważalnego wpływu na rosyjskie prawo bilansowe wciąż należy się liczyć z tym, że prawo to może się różnić od rozwiązań przyjętych w innych krajach czy międzynarodowych standardach. Celem artykułu jest identyfikacja przyjętych obecnie w rosyjskiej praktyce gospodarczej rozwiązań w zakresie outsourcingu rachunkowości oraz dotyczących go rozwiązań prawnych.

Jako metody badawcze zastosowano analizę opisową i dedukcję. Przedmiotem badań była rosyjskojęzyczna literatura oraz akty prawne.

Słowa kluczowe: *outsourcing, rachunkowość, prawo*