

The Law of Ukraine

On Auditing Activity

as amended and supplemented by the Laws of Ukraine
No.81/95-VR dd. March 14, 1995
No.54/96-VR dd. February 20, 1996

This Law establishes legal grounds of conducting auditing activity in Ukraine and is aimed at developing the system of independent financial control in order to protect owner's interests.

Section I

GENERAL PROVISIONS

Article 1. Scope of the Law

Provisions of this Law shall be valid within the territory of Ukraine and extend to all economic subjects regardless of the form of ownership and types of activity, as well as to state bodies of executive power.

Article 2. Auditing Activity Legislation

Auditing activity is regulated by this Law, other legislative and normative acts of Ukraine. Providing there are other rules, set forth by an international agreement wherein Ukraine participates, different to those, stipulated by this Law, the rules of an international agreement shall prevail.

Article 3. Auditing Activity

Auditing activity includes organizational and methodological support of audit, practical performance of audit inspections (audit) and providing other auditing services.

Auditing services may be provided in the form of auditing inspections (audit) and related expert examinations, consultations on accounting, reporting, taxation, analysis of financial and economic activity and other types of economic and legal support of entrepreneurial activity, conducted by natural and legal persons.

Profit (income) received in the result of auditing activity shall be taxed in compliance with the existing legislation.

Article 4. Audit

Audit is an inspection of public accounting, reporting, basic documents and other information related to financial and economic activity of subjects of economic activity with the purpose of identification of reliability of reporting, accounting, their completeness and conformity with the existing legislation and established standards.

Audit is conducted by independent persons (auditors), auditing firms, authorized by subjects of economic activity to conduct it.

Audit may be conducted on an initiative of subjects of economic activity, as well as in cases, envisaged by the existing legislation (mandatory audit).

Costs of conducting audit shall be attributed to cost value of goods (products, services).

Article 5. Auditor

Auditor may be a citizen of Ukraine, who has a certificate of competence on the right to practice auditing activity in the territory of Ukraine.

Auditor is entitled to practice auditing activity individually, set up an auditing firm, unite with other auditors in a union in compliance with requirements of this Law and other Laws of Ukraine.

To conduct auditing activity individually an auditor shall obtain a license based on the current certificate.

Auditors shall be prohibited being directly involved in trade, intermediary and production activity, which does not deprive them of the right to receive dividends from shares and incomes from other corporate rights.

Auditor cannot be a person that was convicted of selfish crimes.

Article 6. Auditing Firm

Auditing firm is an organization, which has the license for the right to conduct auditing activity in the territory of Ukraine and is involved exclusively in providing auditing services.

Auditing firms may be set up based on any form of ownership.

Total size of the portion of founders (participants, shareholders) - who are not auditors - in the authorized fund of an auditing firm cannot exceed 30 per cent.

Auditing firm is allowed to conduct auditing activity only on condition that it has at least one auditor employed.

Auditing firm can be managed only by an auditor.

Article 7. Auditor's Conclusion and Other Official Documents

Auditor's conclusion is an official document, certified by signature and stamp of an auditor (auditing firm), drawn up in compliance with the established procedure by the consequences of conducting audit, and contains a conclusion regarding reliability of reporting, completeness and conformity with the existing legislation and accepted standards of accounting of financial and economic activity.

Auditing services in the form of consultations may be provided verbally or in writing with drawing up a certificate and other official documents. Auditing services in the form of expert examinations shall be drawn up by an expert conclusion or a statement.

Conclusion of a foreign auditor – once officially submitted to an institution, organization or a subject of economic activity of Ukraine is subject to confirmation by an Ukrainian auditor unless otherwise stipulated by an international agreement.

Article 8. Public Accounting

Public accounting consists of an auditor's conclusion, balance sheet, income statement, other reporting documents within evidence that is not commercial classified information, and defined by legislation as destined for provision to a user and publication.

Auditor's conclusion on reliability, completeness and conformity with the existing legislation and established standards of the balance sheet and other forms of public accounting shall be based on an analysis of sufficient volume of information as to consequences of financial and economic activity, and on a study of accounting and documents that is commercial classified information and is not subject to publication.

Disclosure of accounting that is commercial classified information in order to conduct an audit and provide other auditing services shall be performed by users of accounting.

Article 9. Users of Accounting

Users of accounting may be authorized representatives - on the grounds of the Laws of Ukraine – of state authorities, natural and legal persons, interested in consequences of commercial activity of subjects, including owners, founders of subjects of economic activity, creditors, investors and other persons that – according to the existing legislation are entitled to receive information contained in accounting.

Users of accounting are entitled to act as customers of conducting audit and other auditing services, identify volume and direction of auditing inspections within authorities, granted by legislation, statutory documents or separate agreements.

Article 10. Mandatory Audit

Auditing is mandatory for:

1) confirmation of reliability and completeness of the annual balance sheet and reports of commercial banks, funds, exchanges, companies, enterprises, cooperatives, partnerships and other subjects of economic activity regardless of the form of property and type of activity, whose accounting is made public officially with the exception of institutions and organizations, funded totally by the state budget and not involved in entrepreneurial activity.

(paragraph one, item 1, Article 10 is as amended by the Law of Ukraine No.81/95-VR dd. March 14, 1995)

Mandatory auditing inspection of the annual balance sheet and accounting of subjects of economic activity with economic turnover at least 250 untaxed minima shall be conducted once per three years.

(Article 10 is supplemented with paragraph two according to the Law of Ukraine No.81/95-VR dd. March 14, 1995)

2) inspection of financial state of founders of commercial banks, enterprises with foreign investments, joint-stock companies, holdings, investment funds, subsidiaries and other financial intermediaries;

3) securities issuers;

4) state enterprises in case of leasing integral property compounds, privatization, corporatization and other changes of the form of ownership;

5) raising the question on recognizing a company insolvent or bankrupt.

Conducting audit is also mandatory in other cases, envisaged by Laws of Ukraine.

Article 11. Responsibility for Observing the Procedure of Accounting

Responsibility for observing the procedure of accounting, determined by Ukrainian legislation, timely and complete provision of accounting to users and auditors shall be assigned to the general manager of the subject of economic activity.

Public accounting must be inspected by an auditor (auditing firm) and may be made public within the year following the accounting year.

Auditing inspections do not exclude conducting control by state tax inspections over observing tax legislation and performing controlling functions by other subjects, authorized to do this by Laws of Ukraine.

Section II

CERTIFICATION AND LICENSING IN AUDITING ACTIVITY

Article 12. Certification of Auditors.

Certification (identification of qualification aptitude) of auditors shall be conducted by the Auditing Chamber of Ukraine.

The right to receive the certificate is given to citizens of Ukraine that have higher education, certain knowledge on audit issues and work experience not less than three years running on the position of an auditor, inspector, accountant, lawyer, financier or economist. Possession of certain knowledge on audit issues is identified by means of a corresponding examination.

Persons that failed the examination are entitled to take it repeatedly not earlier than one year after the decision is made by the Auditing Chamber of Ukraine.

Term of validity of the certificate cannot exceed five years.

Members of the Auditing Chamber of Ukraine are subject to certification in compliance with the established procedure.

Persons, delegated to the Auditing Chamber of Ukraine of the first calling are subject to certification pursuant to requirements of this Law, with exception of taking the examination.

Article 13. Licensing of Auditing Activity

License (permit) to practice auditing activity is issued by the Auditing Chamber of Ukraine to individual auditors or auditing firms in compliance with requirements of this Law and other Laws of Ukraine.

Application for obtaining the license shall be submitted to the Auditing Chamber of Ukraine following the state registration of an auditing firm or an individual auditor as a subject of entrepreneurial activity.

A charge shall be imposed for issuing the license in the size of five minimal non-taxable personal incomes, which shall be transferred to the state budget.

(part three, Article 13 is as amended by the Law of Ukraine No.54/96-VR dd. February 20, 1996)

Term of validity of licenses cannot exceed five years.

Section III

THE AUDITING CHAMBER OF UKRAINE

Article 14. Authorities of the Auditing Chamber of Ukraine

Authorities of the Auditing Chamber of Ukraine are determined by this Law and the Charter of the Auditing Chamber of Ukraine.

The Charter of the Auditing Chamber of Ukraine is subject to approval by two thirds of votes of the total number of members of the Chamber.

The Auditing Chamber of Ukraine conducts certification and licensing of subjects that have an intention to practice auditing activity, approves of auditor training programs, norms and standards of audit, maintains the Register of auditing firms and auditors that provide auditing services individually.

Approval of norms and standards of audit is the exclusive right of the Auditing Chamber of Ukraine. Norms and standards of audit approved by the Auditing Chamber of Ukraine are mandatory for enterprises, institutions and organizations.

Article 15. Establishment of the Auditing Chamber of Ukraine

The Auditing Chamber of Ukraine is established and functioning as an independent individual agency on the basis of self-government.

The Auditing Chamber of Ukraine is a legal entity; it maintains corresponding accounting and reporting.

The Auditing Chamber of Ukraine acquires authorities of a legal entity from the date of its registration in the Ministry of Justice of Ukraine on the basis of the application and the Charter, approved in compliance with the procedure, envisaged by this Law. No fee is charged for the registration.

The Auditing Chamber of Ukraine is formed by means of delegating to its composition of five representatives from the professional public organization of auditors of Ukraine, one representative from the Ministry of Justice, the Main State Tax Inspection of Ukraine, the National Bank of Ukraine, the Ministry of Statistics of Ukraine, the Ministry of Justice of Ukraine and certain experts from educational, scientific and other organizations.

Five experts from educational, scientific and other organizations are delegated - by their consent – by the professional public organization of auditors of Ukraine, and by one representative on the proposal of the Ministry of Finance of Ukraine, the Main State Tax Inspection of Ukraine, the National Bank of Ukraine, the Ministry of Statistics of Ukraine and the Ministry of Justice of Ukraine.

The procedure of delegation is determined by the congress, board, collegium or other higher administration body in compliance with requirements of Article 12 of this Law.

The total number of members of the Auditing Chamber of Ukraine is twenty persons.

The Auditing Chamber of Ukraine sets up regional departments within the territory of Ukraine, whose authorities are determined by the Auditing Chamber of Ukraine.

Administering of every-day affairs in the Auditing Chamber of Ukraine shall be performed to the Secretariat managed by the Administrator. The Administrator of the Secretariat bears personal responsibility for effective use of property and funds of the Auditing Chamber of Ukraine and creation of proper conditions for performing functions by its members.

Article 16. Activity of the Auditing Chamber of Ukraine

The term of authorities assigned to members of the Auditing Chamber of Ukraine cannot exceed five years.

The term of authorities assigned to members of the Auditing Chamber of Ukraine of the first calling cannot exceed three years.

Personnel of the Auditing Chamber of Ukraine is subject to annual rotation in the quantity of at least three members.

Rotation is conducted on the basis of determination of the personal rating of members of the Auditing Chamber of Ukraine by means of secret questioning of auditors of Ukraine.

Results of questioning are approved by the Auditing Chamber of Ukraine.

Appointment of new members of the Auditing Chamber of Ukraine to replace those who left is conducted according to the established procedure.

All decisions of the Auditing Chamber of Ukraine are made at its meetings by simple majority of votes once there are two thirds of its members, except for decisions, envisaged by part two, Article 14 of this Law. In certain cases subject to determine in the Charter of the Auditing Chamber of Ukraine, decisions may be made by means of written questioning.

In case of equal distribution of votes, preference shall be given to the decision favored by the Chairman.

The meeting of the Auditing Chamber of Ukraine is run by the Chairman, whose functions are performed by all members of the Chamber in turn in the alphabetical order.

Members of the Auditing Chamber of Ukraine perform their duties on a voluntary basis.

Material losses on certification shall be recovered at the expense of persons, claiming to receive certificates in the size determined by the Auditing Chamber of Ukraine.

Section IV

PROFESSIONAL PUBLIC ORGANIZATION OF AUDITORS OF UKRAINE

Chapter 17. Establishment of a professional public organization of auditors of Ukraine

Auditors of Ukraine are entitled to unite in a public organization by professional signs (the Union of Auditors of Ukraine), observing the requirements of this and other Laws of Ukraine.

The Union of Auditors of Ukraine should have a fixed individual membership in the person of certain auditors or auditor staff.

The Union of Auditors of Ukraine may set up local affiliates once there are at least five auditors that are members of the Union. Setting up local affiliates is not mandatory.

Article 18. Authorities of the Professional Public Organization of Auditors of Ukraine (the Union of Auditors of Ukraine)

Authorities of the professional public organizations of auditors of Ukraine are determined by this Law, the Law of Ukraine "On Association of Citizens" and the Charter of the professional public organization of auditors of Ukraine (the Union of Auditors of Ukraine).

In order to ensure social protection of its members the Union of Auditors of Ukraine may establish corresponding funds, including a social insurance fund.

The Union of Auditors of Ukraine is entitled to do the following according to the procedure, established by this Law:

- delegate its representatives to the Auditing Chamber of Ukraine and recall them ahead of time;
- file a motion on terminating authorities of members of the Auditing Chamber of Ukraine, delegated by the Ministry of Finance, the Main State Tax Inspection of Ukraine, the National Bank of Ukraine, the Ministry of Statistics of Ukraine, and the Ministry of Justice of Ukraine;
- submit drafts of audit norms and standards to be considered by the Auditing Chamber of Ukraine.

Decisions and motions on the issues of delegating, recalling and terminating authorities of members of the Auditing Chamber of Ukraine shall be made by the Congress of the Union of Auditors of Ukraine or its board with further approval of such decisions by the congress.

Section V

THE PROCEDURE FOR AUDITING AND PROVIDING OTHER AUDITING SERVICES

Article 19. General Conditions of Conducting Audit and Providing Other Auditing Services

Auditor may provide auditing services individually or as an employee of an auditing firm.

Auditor is entitled to provide auditing services individually only from the day he/she obtained the license on the basis of the effective certificate.

An auditing firm is entitled to provide auditing services from the date it obtained the license, and on condition of employment of at least one auditor that has the effective certificate.

Bodies of state executive power, executive bodies of local councils of people's deputies, controlling and inspection institutions that have state authorities, as well as certain persons that cannot perform entrepreneurial activity under the Laws of Ukraine are prohibited to provide auditing services.

Article 20. Grounds for Conducting Audit and Providing Other Auditing Services

Audit is conducted on the grounds of an agreement between an auditor (auditing firm) and a customer.

Auditing services in the form of consultations may be provided on the basis of an agreement, written or verbal request of a customer to an auditor (auditing firm).

The agreement on conducting audit and providing other auditing services envisages the subject and the term of inspection, the volume of auditing services, the size and the terms of payment, liability of sides.

The customer shall have the right of free choice of an auditor (auditing firm) in keeping with requirements of this Law.

The customer is obliged to create due conditions for conducting proper audit.

Article 21. Report on Consequences of Audit

Execution of the agreement by the auditor (auditing firm) is determined by the acceptance report of the auditor's conclusion or other official documents.

Auditor's conclusion is drawn up in keeping with corresponding norms and standards and should contain a confirmation or a substantiated denial to confirm reliability, completeness and conformity with legislation of customer's accounting.

The procedure of drawing up other official documents by the results of provided auditing services is determined by the Auditing Chamber of Ukraine in compliance with the requirements of this Law and other legislative acts of Ukraine.

Section VI

RIGHTS AND LIABILITIES OF AUDITORS AND AUDITING COMPANIES

Article 22. Rights of Auditors and Auditing Firms

Auditors and auditing firms of Ukraine are entitled to:

1) independently determine the forms and methods of audit on the basis of the current legislation, existing norms and standards, terms of agreement with the customer, professional knowledge and experience;

2) obtain required documents, related to the subject of inspection and are held either by the customer or third parties.

Third parties that have in their possession documents related to the subject of inspection, shall be obliged to provide them on auditor's (auditing firm's) demand. The specified demand shall be officially approved by the customer;

3) receive necessary written or verbal explanations from management or employees of the customer;

4) check the availability of property, money, values, demand from the management of a subject of economic activity to conduct test inspections, measurement of performed works, identification of product quality, related to which document inspection is conducted;

5) attract different profile experts to participation in the inspection on a contractual basis.

Article 23. Liabilities of Auditors and Auditing Firms

Auditors and auditing firms shall be obliged to:

- 1) properly provide auditing services, inspect the state of customer's accounting and reporting, their reliability, completeness and conformity with the current legislation and established standards;
- 2) inform owners, persons authorized by them, customers of deficiencies in accounting and reporting found out during the auditing inspection;
- 3) keep secret the information received during the auditing inspection and while providing other auditing services. Not to divulge data, considered a commercial classified information, nor to use them in their own interests or in the interests of third parties;
- 4) be liable before the customer for violation of terms of the agreement in compliance with the current legislative acts of Ukraine;
- 5) restrict their activities to providing auditing services and other activities, directly associated with auditing services in the form of consultations, inspections or expert examinations.

Article 24. Special Requirements

Audit cannot be conducted by:

- 1) the auditor, who has direct family relations with management of the inspected subject of economic activity;
- 2) the auditor, who has personal property interests at the inspected subject of economic activity;
- 3) the auditor – member of management, founder or owner of the inspected subject of economic activity;
- 4) the auditor – employee of the inspected subject of economic activity;
- 5) the auditor – employee, co-owner of a subsidiary, affiliate or a representative office of the inspected subject of economic activity.

Section VII

LIABILITY OF AUDITORS AND AUDITING FIRMS

Article 25. Civil Liability of Auditors and Auditing Firms

Auditor (auditing firm) shall bear property and other liability, stipulated in the agreement in compliance with the current legislation for improper performance of his/her obligations.

The size of property liability of auditors (auditing firms) cannot exceed the amount of losses actually suffered by the customer through auditors' (auditing firms) fault.

All disputes of property character between the auditor (auditing firm) and the customer shall be settled in compliance with the established procedure in keeping with the requirements of this Law.

Article 26. Other Kinds of Liability of Auditors

Punishments in the form of warning, suspension of the validity of the certificate and the license for the term of up to one year, or abrogation of the certificate and the license.

Article 27. Termination of Validity of the Certificate and the License

Termination of the validity of the certificate or the license to auditing activity is done on the basis of the decision of the Auditing Chamber of Ukraine in the following cases:

- 1) if there are numerous facts of poor quality of auditing inspections;
- 2) if there are systematic or gross violation of the current Ukrainian legislation, established auditing norms and standards.

The procedure of termination of validity of the certificate and the license to auditing activity is determined by the Auditing Chamber of Ukraine.

Decision of the Auditing Chamber of Ukraine on termination of validity of the certificate and the license may be appealed in court or arbitration court.

Section **VIII**
LIABILITIES OF SUBJECTS OF ECONOMIC ACTIVITY WHEN CONDUCTING AUDITING INSPECTION

Article 28. Entering into an Audit Agreement

Subjects of economic activity, which must be audited according to the legislation, have to notify corresponding tax inspections of entering into an audit agreement before December 1 of the current year.

Article 29. Submitting the Auditor's Conclusion to Tax Inspection

Subjects of economic activity, indicated in item 1, Article 10, should submit the auditor's conclusion and other documents of public accounting to the corresponding tax inspection of Ukraine within nine months of the year following the accounting year.

Submitting of the auditor's conclusion to the corresponding tax inspection is conducted not later than nine days after completion of the auditing inspection. Should the auditor's conclusion be delayed or not submitted to corresponding tax inspections through the fault of a subject of economic activity, financial sanctions and administrative penalties, envisaged by legislative acts of Ukraine shall be imposed upon the latter.

Article 30. Liability of a Subject of Economic Activity While Conducting an Auditing Inspection

Management of a subject of economic activity shall bear personal liability according to the Laws of Ukraine for completeness and reliability of accounting and other documents, provided to an auditor (auditing firm) for conducting an auditing inspection.

Should there be facts of unreliability or incompleteness of accounting documents revealed an auditor (auditing firm) must notify the customer about this not later than by the end of the day the inspection is conducted or other services are provided.

President of Ukraine

L. KRAVCHUK

Kyiv

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