



Georgia

Deloitte Legal

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Georgian Legal News

Refer to the Law

Bill of Amendments to the Georgian Tax Code

On 19 February 2020, the Ministry of Finance of Georgia submitted a bill on changes and amendments to the Tax Code. The proposed amendments are designed to fulfill Georgia's obligations under the Association Agreement between Georgia and the European Union, which foresees the convergence of Georgian tax legislation with that of the EU and other international legal instruments. Pursuant to the Association Agreement, Georgia's tax legislation must reflect the requirements stipulated in Directive 2006/112/E of 28 November 2006 of the Council of the European Union, relating to the establishment of a common value added tax (VAT) system. The bill also aims to elaborate certain statutes of the Tax Code and eliminate legislative gaps.

The proposed amendments affect all clauses in the Tax Code that regulate VAT. Thus, Section VI of the Tax Code will be rewritten. The bill lays out the general principles of VAT taxation and defines certain terms as they relate to VAT, such as "taxable entity/person", "fixed institution", "assisting", "directly related", "continuous", "regular and electronically provided services", "voucher", "low-cost gifts", "taxable dealer", "real property", and others.

Bill “On the Rehabilitation and Collective Satisfaction of Creditors”

The bill aims to replace the law “On Insolvency Proceedings”. The main principle of litigation will be changed: instead of equal protection of debtors’ and creditors’ interests, the main purpose will apparently be the collective satisfaction of creditors’ claims by means of rehabilitation, or, should this fail, via distribution of the sums collected by alienating the bankrupt’s property. Article 11 of the bill defines a new term: “insolvency practitioner”, which is “an independent, impartial, and conscientious natural person or legal entity representing the professional community with the appropriate qualifications and experience.” An insolvency practitioner must participate in insolvency proceedings.

According to the bill, the legal definition of a regulated agreement is “an arrangement between an insolvent/potentially insolvent debtor and creditors ensuring that all creditors receive the minimum amount they would have received if the debtor had been deemed insolvent, except in cases when the creditor agrees to have its claims settled in a different manner pursuant to a regulated agreement.”

The bill updates regulations on the procedure for submitting an insolvency application, its examination, the start of rehabilitation or insolvency regimes, the organization of the electronic processing system, and several other issues.

Resolution No. 99 of 10 February 2020 “On Approving the Rules and Conditions of Entering and Checking (Inspecting) the Objects Subject to Inspection”

The resolution describes the rules and procedures for inspecting dangerous environments that may threaten the life and health of employees and other parties in enterprises and organizations according to the organic law “On Labour Safety”.

The resolution outlines inspection principles and types, as well as measures to be taken, rules for issuing administrative deviation reports, and the rights of the objects being inspected.

Judiciary Practice

The Chamber of Civil Cases of the Supreme Court of Georgia delivered an important interpretation on the legal implications of obtaining moveable property rights for a vehicle in its decision No. as-658-625-2014 of 5 December 2014.

According to the case materials, a vehicle purchase agreement was signed between two persons, after which the buyer transferred the vehicle to a third person. The LEPL Revenue Service deprived the new buyer of the vehicle, as it was still registered under the original seller’s name, who had a debt towards the Revenue Service.

According to the interpretation of the court of cassation, “Article 186 of the Civil Code regulates the rules on purchasing movable property; it has been established that the ownership of a moveable thing shall be transferred from the owner to the acquirer on the grounds of a valid right. Section 2 of the Article exhaustively defines the circumstances that constitute the transfer of a thing, which legally amounts to transfer of property rights, as follows: handing over the thing into the acquirer’s direct possession; transferring indirect possession via a contract under which the previous owner may remain the direct possessor; the owner granting the acquirer the right to claim possession from a third person”.

The court of cassation highlighted that the grounds for transfer of property rights is thoroughly demarcated in the Civil Code, which differentiates the legal regimes for obtaining property rights for movable and immovable property. Namely, Articles 186-197 establish the grounds for transferring property rights of movable property, which covers all types of movable property and does not require that acquired ownership rights be registered: “Registration does not amount to a civil-law action: it only creates a legal foundation for ensuring safe driving and is essentially a matter of administrative law”.

Thus, according to the interpretation of the Supreme Court of Georgia, in order to transfer the ownership rights of a vehicle, being movable property, the fact of actual transfer shall be deemed sufficient, and the validity of this right shall not depend on data recorded in a registration institution.

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