

EY TAX AND LAW BRIEF

March 2021

Amendments to the tax administration rule

- ▶ On 9 March 2021, the Order of the Minister of Finance of Georgia on Amendment of the Order No. 996 of the Minister of Finance of Georgia on Tax Administration was published on the website of the Legislative Herald of Georgia.
- ▶ The amendments defined that for the purposes of VAT credit, repair of the own fixed assets carried out by a taxable person is considered as a fixed asset.
- ▶ According to the amendments, the rule of calculation of the creditable VAT amount on the repair expenses of the own fixed asset was prescribed, if this fixed asset is used simultaneously in transactions with and without the right to deduct and that cannot be separated.
- ▶ In case of use of buildings or structures of one's own production as a fixed asset or repair of the own fixed asset by a taxable person, the rule of calculation of the adjustable/chargeable VAT amount was prescribed with the amendments, if it is used simultaneously in transactions with and without the right to deduct and that cannot be separated.
- ▶ According to the amendments, the rule of VAT calculation and settlement with budget without registration and informing of the foreign taxable person, determined under the article 471 of the instruction on tax administration, will become effective on July 1, 2021.
- ▶ The Order became effective upon its publication.

Source and date of publication: The Legislative Herald of Georgia; 09/03/2021.

- ▶ On 9 March 2021, the Order of the Minister of Finance of Georgia on Amendment of the Order No. 996 of the Minister of Finance of Georgia on Tax Administration was published on the website of the Legislative Herald of Georgia.

- ▶ According to the amendments, if payment fully or partially is made before the supply of goods/delivery of services and the recipient is not registered as a VAT payer at the time of reimbursement, the time of VAT taxation, for the payment received before the VAT registration, is the moment of the supply of goods/services after the VAT registration.
- ▶ The amendments defined that issuing of a tax invoice is not mandatory in the case of tax-exempt transactions provided by the Tax Code of Georgia, unless otherwise provided by the instruction on tax administration.
- ▶ According to the amendments, in the case of a barter operation carried out before January 1, 2021, in exchange for which the supply of goods/services is carried out on January 1, 2021 or later, the VAT taxable amount for each party is determined by the market price of the goods/services provided, excluding VAT and the time of taxation is the moment of supplying of goods/services.
- ▶ If the parties to such a barter operation are persons registered as VAT payers, each party has the right to credit VAT amount accrued on the transaction and reflected in the return at the moment of receiving the goods/services in exchange.
- ▶ If the property right of the purchaser on the immovable property under construction is registered in the registration authority before 2021, and the construction, installation and/or repair service is completed by the supplier of the immovable property in 2021 or later, the service is considered part of the delivery of the immovable property. The time of VAT taxation of this transaction is the moment when the immovable property is put into operation if it is not taxed according to the reporting period of remuneration.
- ▶ If the supply of the mentioned immovable property is taxed with VAT in the period before 2021, its putting into operation is the circumstance for the adjustment of the amount of VAT taxable transaction and is subject to adjustment at the moment of putting the respective immovable property into operation.
- ▶ According to the amendments, in case of import of goods, the expenses of transportation and services directly connected to it incurred up to the customs border of Georgia and are included in the customs value of the goods are subject to VAT exemption with the right of credit.
- ▶ The Order became effective upon its publication and its effect extends to legal relations arising from January 1, 2021.

Source and date of publication: The Legislative Herald of Georgia; 09/03/2021.

- ▶ On 17 March 2021, the Order of the Minister of Finance of Georgia on Amendment of the Order No. 996 of the Minister of Finance of Georgia on Tax Administration was published on the website of the Legislative Herald of Georgia.
- ▶ The amendments clarify the rule for recalculating and refunding the amount of overpaid income tax for the employees, to whom a certificate is issued by the tax authority, but they have not fully used their tax privilege.
- ▶ The Order became effective upon its publication.

Source and date of publication: The Legislative Herald of Georgia; 17/03/2021.

Amendments regarding Transfer Pricing

- ▶ On 5 March 2021, the Order of the Minister of Finance of Georgia on Amendment of the Order No. 423 of the Minister of Finance of Georgia on the Approval of the Instruction on Pricing International Controlled Transactions was published on the website of the Legislative Herald of Georgia.
- ▶ According to the amendments, the request to conclude a unilateral Advance Pricing Agreement (“APA”) on one or more controlled transactions by a Georgian enterprise no longer depends on the GEL 50 000 000 threshold amount of these transactions.
- ▶ The rule of requesting a meeting with the Revenue Service by a Georgian enterprise before submitting an application for concluding a unilateral APA was specified by the amendments.
- ▶ Amendments specified the rules of submitting an application for requesting a unilateral APA by a Georgian enterprise, its review and evaluation by the Revenue Service, conducting negotiations and concluding a unilateral APA.
- ▶ A 30-day period has been prescribed, within which the enterprise will not be sanctioned in case of informing the Revenue Service by the Georgian enterprise about the violation of the provisions of the APA.
- ▶ The form of the annual compliance report has been specified.
- ▶ The amendments specify the grounds for revising and terminating of the unilateral APA.
- ▶ The Order became effective upon its publication.

Source and date of publication: The Legislative Herald of Georgia; 05/03/2021.

The rule of protection of consumers’ rights while providing services by financial organizations was approved

- ▶ On 10 March 2021, the Order No. 32/04 (the “Order”) of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The Order approved a new rule of protection of consumers’ rights when providing services by financial organizations.
- ▶ Among other issues, the Order newly defined:
 - ✓ The obligation of the organization while providing information about the financial product to customers.
 - ✓ The obligations of the financial organization when concluding an agreement remotely.
 - ✓ The obligation of the financial organization to disclose to consumers significant risks related to specific financial products.
 - ✓ The obligations of the financial organization when concluding a specific financial product agreement with customers.
 - ✓ The obligation to develop a code of ethics defining the rules of conduct on relations with customers.
 - ✓ The obligations of the financial organization to review and record customers’ claims.

- ▶ In addition to the credit amortization and the rule of advance payment, the Order defined the rule of general payment of the credit.
- ▶ The rule also sets out the obligation for financial organizations to accept a customer claim regardless of the period elapsed since the issue mentioned in the claim arose.
- ▶ The Order became effective on April 1, 2021.

Source and date of publication: The Legislative Herald of Georgia; 10/03/2021.

Law on Environmental Liability was published

- ▶ On 12 March 2021, the Law of Georgia on Environmental Liability (the "Law") was published on the website of the Legislative Herald of Georgia.
- ▶ Among other issues, the Law regulates the following:
 - ✓ Prevention of significant damage to the environment;
 - ✓ Mitigation of damage or significant damage to the environment;
 - ✓ Legal relations related to the measures to be taken in case of damage to the environment. Such measures include, *inter alia*, the implementation of measures to remedy significant damage to the environment, as well as, compensation for damage and significant damage to the environment.
- ▶ Among other issues, the Law determines the obligation of a person carrying out activities that are significantly dangerous for the environment to have appropriate means of financial security of the risk of damage to the environment early on the beginning of the mentioned activity and during its implementation.
- ▶ The Law will become effective gradually and will enter full force from July 1, 2023.

Source and date of publication: The Legislative Herald of Georgia; 12/03/2021.

Draft Law on Amendments to the Food Products/Animal Feed Safety, Veterinary and Plant Protection Code was published

- ▶ On 17 March 2021, the Draft Law of Georgia on the Amendments to the Food Products/Animal Feed Safety, Veterinary and Plant Protection Code was published on the website of the Parliament of Georgia.
- ▶ Among other issues, the draft law specifies:
 - ✓ Issues related to the recognition of business operators.
 - ✓ Obligations of the business operator in the field of veterinary medicine.
 - ✓ State control authorities at the stage of production and processing of alcoholic beverages, ethyl alcohol of agricultural origin and distillates.
 - ✓ Issues of liability for breach of requirements in the field of food products/animal feed safety, veterinary and plant protection.
- ▶ The draft law defines the Legal Entity of Public Law - National Wine Agency as the body issuing the Certificate of Conformity of alcoholic beverages, ethyl alcohol of agricultural origin and distillate.
- ▶ In case of adoption, the Draft Law will become effective gradually and will enter full force from 1 January 2023.

Source and date of publication: The website of Parliament of Georgia; 17/03/2021.

Draft Law on Amendments to the Law of Georgia on State Property was published

- ▶ On 22 March 2021, the Draft Law of Georgia on Amendments to Law of Georgia on State Property was published on the website of the Parliament of Georgia.
- ▶ According to the amendment provided by the draft law, in case fulfilment of the terms of the agreement on state property becomes difficult or impossible due to State of emergency or an epidemic/pandemic that is particularly dangerous to public health, the respective person may address the property administrator. In such case, the decision on the measures to be taken towards the relevant contractor, upon the submission of the property administrator, is made by the Government of Georgia.
- ▶ The draft law also envisages abolishment of the existing restriction on the waiving unpaid penalty imposed/to be imposed on the basis of an agreement concluded on state property.
- ▶ In case of approval, the Draft Law will become effective upon its publication.

Source and date of publication: The website of Parliament of Georgia; 22/03/2021.

The fact of anti-competitive agreement between the producers of free canteens and catering was revealed

- ▶ On 23 March 2021, the decision No. 04/31 of the Georgian National Competition Agency ("Agency") was published on the website of the Agency.
- ▶ An investigation by the Agency found that there was a market sharing by the companies participating in the tenders announced for the purchasing of free canteens and catering services.
- ▶ According to the decision of the Agency, four out of seven economic agents were confirmed to have implemented a decision, a concerted action, the purpose or result of which is to restrict, make impermissible and/or prohibit competition.

Source and date of publication: The website of the National Competition Agency of Georgia; 23/03/2021.

Contact information:

Tato Chantladze

Partner | Tax & Law
EY LLC

Kote Abkhazi st. 44, 0105, Tbilisi, Georgia
Tel.: +995 (32) 215-88-11

Tato.Chantladze@ge.ey.com

George Svanadze PhD., LL.M., MLB (Bucerius/WHU)

Associate Partner | Head of Law Practice
EY LLC

Kote Abkhazi st. 44, 0105, Tbilisi, Georgia
Tel.: +995 (32) 215-88-11

George.Svanadze@ge.ey.com

Irine Bukia

Manager | Head of Transfer Pricing Practice
in Georgia and Armenia

EY LLC

Kote Abkhazi st. 44, 0105, Tbilisi, Georgia
Tel.: +995 (32) 215-88-11

Irine.Bukia@ge.ey.com

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