

EY TAX AND LAW BRIEF

March-April-May 2020

The National Bank of Georgia Has Approved the New Regulation on Crediting of an Individual

- ▶ On 17 March 2020, the Order No. 44/04 of the President of the National Bank of Georgia on the Approval of the New Regulation on Crediting of an Individual was published on the website of the Legislative Herald of Georgia (the "Regulation").
- ▶ By the Order No. 44/04, the Order No. 281/04 of the President of the National Bank of Georgia dated 24 December 2018 on the Approval of the Regulation on Crediting of an Individual was declared invalid (the "Invalidated Order").
- ▶ Unlike the Invalidated Order, the Regulation does not apply to the persons, amount of loan of which is more than GEL 1 million or its equivalent in foreign currency, instead of GEL 2 million or its equivalent in foreign currency.
- ▶ Unlike from the Invalidated Order, the Regulation also does not apply to the persons complying with the criteria of the sophisticated investor in compliance with the Law of Georgia on Securities Market.
- ▶ Under the Regulation maximum term for the mortgage loans issued in GEL has been increased from 15 up to 20 years.
- ▶ Requirements of the Regulation do not apply to the loan balances existing before 1 January 2019 and their refinancing. The Regulation also does not apply to the refinancing performed after 1 January 2019 (may be performed several times), if initial loan was disbursed before 1 January 2019.
- ▶ Requirements of the Regulation apply to the refinancing of the loan issued after 1 January 2019.
- ▶ Requirements of the Regulation do not apply to the sureties/delivery of securities signed with the physical person for securing contractual loan amount existing as at 1 January 2019 before enactment of the Order No. 44/04.
- ▶ The Order became effective from 15 April 2020.

Source and date of publication: the Legislative Herald of Georgia; 17/03/2020.

The National Bank of Georgia Has Approved the Manual of the Regulation on the Money Transfer Accompanying Information

- ▶ On 6 March 2020, the Order No. 31/04 of the President of the National Bank of Georgia on the Approval of the Manual of the Regulation on the Money Transfer Accompanying Information was published on the website of the National Bank of Georgia (the "Manual").
- ▶ The Manual applies to the commercial bank licensed by the National Bank of Georgia, payment service provider registered by the National Bank of Georgia, and microfinance organization.
- ▶ The objective of the Manual is development of the corresponding measures for identification of incomplete information about payer or/and recipient in course of performing payment transaction by the payment service provider (the "Provider").
- ▶ The Manual is aimed at the Provider to develop and introduce the procedures for management of money transfers, which are not completely comprised of the information accompanying the money transfers as prescribed by the Regulation.
- ▶ The Manual specifies the rule of action of the Provider and intermediary provider, to manage the risk of money laundering or terrorism financing, where mandatory information about payer or/and recipient is incomplete.
- ▶ According to the Order, along with the Manual, the provider and intermediary provider shall take into account the requirements of the Law of Georgia on Promoting Prevention of Money Laundering and Terrorism Financing.
- ▶ The Provider and the intermediary provider shall also foresee other regulatory acts developed by the National Bank of Georgia and the Financial Monitoring Service of Georgia based on the Law of Georgia on the Promotion of Money Laundering and the Prevention of Terrorist Financing.
- ▶ The Order became effective upon its signature.

Source and date of publication: official website of the National Bank of Georgia; 06/03/2020.

The National Bank of Georgia has Approved the Rule for Using NBF Portal of Remote Supervision

- ▶ On 16 April 2020, the Order No. 69/04 of the President of the National Bank of Georgia on the Approval of the Rule for Using NBF Portal of Remote Supervision was published on the website of the National Bank of Georgia.
- ▶ The order prescribes the rule for using the portal (the "Portal") of remote supervision of NBF.
- ▶ For the purposes of the Order, the user of the Portal may be microfinance organization, loan issuing entity, foreign exchange office and nonbanking depository establishment - credit union, which is subject to the supervision of the National Bank and admitted to the Portal.
- ▶ According to the Order, the main function of the Portal is sharing information, documents, statements, including confidential documents and communication between the National Bank of Georgia and the registered users of the Portal.
- ▶ Pursuant to the Order, any document uploaded on the Portal by the National Bank of Georgia is of mandatory legal force. Such document may be scanned, sent by message or/and signed digitally/electronically.

- ▶ According to the Order, the user is obliged to check the messages sent by the National Bank of Georgia to him/her or/and the documents uploaded to the Portal on daily basis.
- ▶ According to the Order, the Portal is placed on the following address: www.nbfi.nbg.ge.
- ▶ The Order became effective upon its publication.

Source and date of publication: the website of the National Bank of Georgia; 16/04/2020.

International Financial Reporting Standards - 2020 Were Introduced in Georgian

- ▶ On 7 May 2020, the Order No. n-6 of the Head of the Accounting, Reporting and Auditing Supervision Services on introduction of the International Financial Reporting Standards - 2020 in Georgian language was published on the website of the Legislative Herald of Georgia.
- ▶ According to the Order, International Financial Reporting Standards - 2020 (the "Standards") adopted and published by the International Accounting Standards Board (IASB) were introduced in Georgian.
- ▶ According to the Order, the Standards will be published on the website of the Accounting, Reporting and Auditing Supervision Service - www.saras.gov.ge.
- ▶ Subject to the Order, the Standards will be updated by the Accounting, Reporting and Auditing Supervision Service within 6 months from updating of their English version.
- ▶ According to the Order, Standards are mandatory for the reporting period as commenced on 1 January 2020 and following periods.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 07/05/2020.

The Rule of Maintaining Unified Registry of Certified Accountants Has Been Approved

- ▶ On 30 April 2020, the Order No. n-4 of the Head of the Accounting, Reporting and Auditing Supervision Service on the Approval of the Rule of Maintaining Unified Registry of Certified Accountants was published on the website of the Legislative Herald of Georgia.
- ▶ The Rule approved with the Order determines the procedure for maintaining unified registry of certified accountants, its form, the list of information to be reflected in the registry, parties to the registration process, their rights and obligations.
- ▶ According to the Rule approved with the Order, certain information about the certified accountant shall be reflected in the registry for certified accountants, including name, surname, contact email, phone number etc. of the mentioned person.
- ▶ The registry of certified accountants will be published on the website of the Accounting, Reporting and Auditing Supervision Service.
- ▶ For the purpose of reflection of the information in the registry, certified accountant is obliged to provide professional organization for accountants and/or auditors operating in Georgia with the information established under the Order.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 30/04/2020.

Normative Content of the Articles Excluding Issuance of Complete Text of the Judicial Acts Adopted at the Open Court Hearing in the Form of Public Information Is Invalidated from 1 May 2020

- ▶ On 12 June 2019, the Decision No. 1/4/693,857 of the Primary Board of the Constitutional Court of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The regulatory content of certain articles of the General Administrative Code of Georgia and the Law of Georgia on Personal Data Protection excluding issuance of complete text of the judicial acts adopted at the open court hearing in the form of public information were declared unconstitutional with the decision.
- ▶ According to the decision, ensuring the access to judicial acts is related with the public supervision of justice and building public confidence in the judiciary. Correspondingly, complete text of judicial acts, including the personal data presented in them are important to be accessible to the parties concerned.
- ▶ Pursuant to the decision, the tools may be introduced, under which it will be possible to establish the extent of the interests of a person in protection of own personal data. In particular, a court may itself determine if a subject has the desire to protect privacy of personal information and, therefore, protection of personal data reflected in the judicial decisions will depend on the will expressed by the data subject.
- ▶ The disputed norms are invalid from 1 May 2020.

Source and date of publication: the Legislative Herald of Georgia; 12/06/2019.

The Rule for Carrying Out State Control of Safety and Quality of Pharmaceutical Products Has Been Approved

- ▶ On 25 March 2020, the Order No. 01-33/n of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia on the Approval of the Rule of Carrying Out State Control of Safety and Quality of Pharmaceutical Products was published on the website of the Legislative Herald of Georgia.
- ▶ According to the Order, the evaluation-based optional control determines the procedures, based on which optional control of retailers of pharmaceutical products is carried out.
- ▶ Pursuant to the Order, the optional control is carried out by LEPL Medical and Pharmaceutical Activities Regulation Agency (the "Medical and Pharmaceutical Agency").
- ▶ According to the Order, Medical and Pharmaceutical Agency uses the mechanisms for laboratory control and administrative control of distribution chain for the pharmaceutical product risk evaluation-based optional control.
- ▶ The Order determines the subjects of the risk evaluation-based optional control. Authorized drugstores, retail objects, in which pharmaceutical products are sold etc. may become subjects of such control.
- ▶ The Order will become effective gradually and enter full force from 1 January 2022.

Source and date of publication: the Legislative Herald of Georgia; 25/03/2020.

The Government of Georgia Has Approved the Rule for the Novel Food Products

- ▶ On 16 March 2020, the Ordinance No. 167 of the Government of Georgia on the Approval of the Rule for Novel Food Products was published on the website of the Legislative Herald of Georgia.
- ▶ According to the Ordinance, the Rule of Novel Food Products (the “Rule”) establishes the terms related with the placement of novel food products on the market.
- ▶ Pursuant to the Ordinance, the novel food products are considered to be the new products, which have not been essentially used in Georgia as food products before 1 May 2018 and which belong to one of the categories prescribed by the Ordinance. As an example, such categories are food products, which are made of, allocated or produced of microorganisms, mushrooms and algae.
- ▶ According to the ordinance, LEPL National Food Agency (the “Food Agency”) is obliged to create and periodically update the list of the authorized novel food products.
- ▶ Pursuant to the ordinance, only the novel food products, which are authorized and included in the list of the novel food products by the Food Agency, may be placed on the market for being used as food product.
- ▶ Authorized food products and those included in the list of the novel food products by the Food Agency, may be used in compliance with the prescribed terms of use and labeling-related requirements.
- ▶ The Order will become effective gradually and enter full force from 1 September 2023.

Source and date of publication: the Legislative Herald of Georgia; 16/03/2020.

The Government of Georgia Approved the Rule for Measurement, Regulation, and the Permitted Norms of the Substances Vaporized from the Filtered and Plain Cigarettes Intended for Sale

- ▶ On 9 March 2020, the Ordinance No. 150 of the Government of Georgia was published on the website of the Legislative Herald of Georgia.¹
- ▶ The rules for the maximum permissible norms of the substance vaporized from the filtered and plain cigarettes (except heated tobacco), as well as the rules of their measurement and regulation were approved under the Ordinance. Such vaporized solutions may be nicotine, tar and choking gas.
- ▶ The rule of application of the maximum permissible norms for the capacity of the nicotine-consuming material, cartridge, capsule, container of the electronic cigarette or other similar devices intended for sale in Georgia, and the content of nicotine in them were approved with the Ordinance.
- ▶ The Ordinance approved the rules for medical warnings to be placed at the points of sale of tobacco products, and their boxes/blocks and wrapping and the rule of their application.
- ▶ The rule prescribed with the Ordinance applies to the entities activities of which are related with the manufacturing of the tobacco products, their sale and/or import.
- ▶ The Ordinance became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 09/03/2020.

¹ Ordinance No. 150 of the Government of Georgia dated 6 March 2020 on the Approval of the Maximum Permissible Norms for the Substances (Nicotine, Tar, Choking gas) Vaporized from the Filtered or Plain Cigarettes (Except Heated Tobacco), the Rules for their Measurement and Regulation, the Capacity of Material/Cartridge/Capsule/Container of Nicotine of Electronic Cigarettes or Other Similar Devices, Maximum Permissible Norms of Nicotine in It and the Rules for Medical Warnings to Be Placed at the Points of Sale of Tobacco Products, and their Boxes/Blocks and Wrapping and the Rule of their Application.

The Agreement on the International Passenger and Freight Transportation has Been Signed by the Government of Georgia and the Swiss Federal Council

- ▶ On 9 March 2020, the Agreement on the International Passenger and Freight Transportation signed by the Government of Georgia and the Swiss Federal Council was published on the website of the Legislative Herald of Georgia.
- ▶ The Agreement regulates transportation of passengers and freight, when starting or destination place of the route is located in the territory of one of the signatory states. Herewith, transportation shall be carried out by a vehicle registered at the territory of the second signatory state.
- ▶ According to the Agreement, the carrier may be an individual or legal entity residing or registered in Georgia or Switzerland as authorized to carry out transportation of passengers or freight by vehicle under the applicable laws of the signatory state.
- ▶ Pursuant to the Agreement, transportation services are subject to obtaining mandatory permits in compliance with the laws of the signatory states, except the exceptions as prescribed under the Agreement. In particular, the Agreement lists the events of passenger transportation, which are not subject to obtaining a permit.
- ▶ According to the Agreement, permit shall be issued reciprocity basis.
- ▶ The protocol attached to the Agreement prescribes exceptions out of the regime of issuing permits to the freight transportation; for example, postal shipments, transportation of damaged vehicles etc.
- ▶ The Agreement becomes effective after exchanging diplomatic notes on completion of all corresponding state procedures. The Agreement will become effective from the date of receipt of the last notice.

Source and date of publication: the Legislative Herald of Georgia; 09/03/2020.

The Bill on the Amendments to the Labor Code of Georgia

- ▶ On 27 April 2020, the Bill on the Amendment of the Labor Code of Georgia was published on the website of the Parliament of Georgia.
- ▶ Along with other amendments, the existed list of discrimination signs is being extended with the Bill, as well as the definitions of the direct and indirect discriminations are presented.
- ▶ The Bill is aimed at the introduction of the principle of equal pay for the work of equal value for men and women.
- ▶ The Bill prescribes additional material terms to be foreseen in labor agreement. Examples to such additional material terms and conditions are the components of remuneration, the rule of termination of labor agreement, etc.
- ▶ The legal status of an intern has been established with the Bill and it will be included in the scope of the Labor Code.
- ▶ The Bill foresees regulation of the issues related with the part-time employment and means for the legal protection of such employees.
- ▶ According to the Bill, normal working time is any part of the time when a worker works at the employer's disposal and performs his or her activities or duties. Working time is not considered a break time and a rest time.

- ▶ Pursuant to the Bill, overtime work shall be remunerated by an increased amount of hourly rate. In particular, the amount of such remuneration shall be determined by agreement between the parties and shall be at least 125 percent of the standard hourly wage rate.
- ▶ According to the Bill, the amount of remuneration may not be less than the minimum wage. The mechanism for determining the minimum wage, its scope, and the regulations concerning the protection of remuneration shall be laid down in a special law on minimum pay.
- ▶ The Bill foresees the regulations for the protection of rights of the employees in case of full or partial alienation of an enterprise or a business as well as the provisions governing the labor issues in regards with the referred process. For example, according to the Bill, it is prohibited to terminate labor agreement on the grounds of transfer of an undertaking.
- ▶ In the event of adoption of the Bill, it shall become effective gradually, and enter full force from 1 January 2021.

Source and date of publication: the website of the Parliament of Georgia; 27/04/2020.

The Bill on the Amendment of the Law of Georgia on the National Bank of Georgia

- ▶ On 11 March 2020, the Bill on Amendment of the Law of Georgia on the National Bank of Georgia was published on the website of the Parliament of Georgia.
- ▶ Along with other amendments, presented Bill foresees extension of the supervisory authorities of the National Bank of Georgia. In particular, the Bill grants the National Bank of Georgia the right of the supervision in the field of accounting, reporting and auditing.
- ▶ Supervision of the entities foreseen under the Law of Georgia on Accounting, Reporting and Auditing by the National Bank of Georgia, also includes the registration and deregistration, inspection and regulation, issuing written instructions, establishing additional requirements, restrictions and sanctions.
- ▶ In the event of adoption of the Bill, it will become effective on 1 May 2020.

Source and date of publication: the website of the Parliament of Georgia; 11/03/2020.

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