

EY TAX AND LAW BRIEF

August 2020

Amendments to the Tax Code of Georgia

- ▶ On 22 July 2020, the Law of Georgia on Amendments to the Tax Code of Georgia was published on the official website of the Legislative Herald of Georgia.
- ▶ The amendments envisaged by the law apply to all the existing VAT regulations in the Tax Code of Georgia and Section VI of the Code has been completely reworded. The purpose of these amendments is to bring Georgia's tax legislation closer to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (VAT) in accordance with the European Union Association Agreement. The new VAT regulatory norms will become effective on 1 January 2021.
- ▶ In addition, a significant change has been made to the Tax Code with respect to Corporate income tax. According to the amendment, Corporate income tax will no longer be levied on the free delivery of goods, services and/or transfer of funds to a person subject to Corporate income tax in the course of profit distribution.
- ▶ Also, Article 174, Section 3, Subparagraph "f1" of the Tax Code, which provided for a restriction on the period of VAT deduction on the basis of customs declarations, was removed.
- ▶ Significant changes have also been made to property tax. In particular, real property, yachts (cutters), helicopters, airplanes, and other vehicles acquired through auction, direct sale or otherwise as part of the measures for ensuring performance of contractual obligations or as part of enforcement of a payment obligation (except for the penalties imposed under criminal or administrative proceedings), have been added to the list of taxable property for resident entities/organizations.
- ▶ It has also been established that the tax on the property of an individual should be calculated in proportion to the time they have actually owned this property during the tax period.
- ▶ According to the amendments, salary income will no longer include the benefits received by the employer by paying the insurance premium in favor of the employee under the compulsory insurance scheme in accordance with the legislation of Georgia.

- ▶ Also, such income no longer includes the transfer of housing and/or the provision of catering services to the employee by the employer and/or reimbursement of expenses related to the same services, if all the following conditions are met:
 - Housing/food is provided based on the specifics of the employer's activities and is a necessary condition for the employee to properly fulfill the obligations under the employment contract and/or, without the employer's involvement, the employee is forced to incur unreasonable expenses and/or spend unreasonable time on housing/food;
 - Transfer of housing and/or provision of food services and/or reimbursement of expenses related to the same services are not part of the remuneration provided for in the employment contract made between the employer and the employees.
- ▶ A new type of entity was also added to the Code - investment funds, which are 'joint investment funds' or investment companies established in accordance with the Law of Georgia on Collective Investment Undertakings. Activities related to the management and administration of the investment fund, as well as provision of depositary services to the investment fund are considered as financial services. Also, investment funds will enjoy some tax privileges.
- ▶ The amendments also set out the reporting rules for multinational enterprise groups. It is noteworthy that if the parent of a multinational enterprise group is a resident of Georgia, it will be obliged to submit a country-by-country report to the tax authorities until 31 December of the year following the reporting year.
- ▶ The above-mentioned amendments, except for the VAT-related amendments, became effective upon publication.

Source and date of publication: the Legislative Herald of Georgia, 22/07/2020.

Amendments to the Double Taxation Avoidance Treaties based on the Multilateral Convention

- ▶ On 23 July 2020, the English and Georgian texts of the amendments to the double taxation avoidance treaties concluded between Georgia and Finland, Georgia and Iceland, Georgia and Ireland, Georgia and Luxembourg, Georgia and Slovenia have been published on the website of the Ministry of Finance.
- ▶ These texts include the amendments made based on the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* that became effective on 1 July 2019.

Source and date of publication: the website of the Ministry of Finance, 23/07/2020.

Draft Law of Georgia on Entrepreneurs

- ▶ On 13 August 2020, the Draft Law of Georgia on Entrepreneurs was published on the website of the Legislative Herald of Georgia.
- ▶ One of the objectives of the Draft Law is performance of the requirements of Association Agreement signed by and between European Union and Georgia. Therefore, imperative and dispositional norms of regulations of the European Union prescribed in the Association Agreement and its Appendices are presented in the Draft Law.
- ▶ Along with other changes, the Draft Law differentiates the types of capital. In particular, "placed capital" is the amount agreed by the founding partners and stipulated in the founding agreement. Except joint stock company, existence of the placed capital is not mandatory for the entrepreneurial companies of other form.

- ▶ The Draft Law specifies the issues relating to the reorganization of a company. For example, various types of merger and division are established, one of which is division by purchase.
- ▶ The Draft Law amends and specifies the issues relating to the suspension of a company.
- ▶ Along with other amendments, the Draft Law amends norms for general partnership, limited partnership, limited liability company, joint stock company and cooperative.
- ▶ Upon enactment of the Draft Law, the Law of Georgia on Entrepreneurs will be considered invalidated.
- ▶ In the event of adoption of the Draft Law, it will become effective on 1 January 2021.

Source and date of publication: the Legislative Herald of Georgia; 13/08/2020.

Draft Law on the Amendments to the Labor Code of Georgia

- ▶ The Draft Law on the Amendment of the Labor Code of Georgia is being considered at the stage of second hearing in Parliament of Georgia.
- ▶ The Draft Law offers new regulations on different labor-related aspects, including:
 - ✓ Prohibition of discrimination;
 - ✓ Verbal and fixed term employment agreement;
 - ✓ Material terms of the employment agreement;
 - ✓ Legal status of an intern;
 - ✓ Incomplete working rate;
 - ✓ Working hours;
 - ✓ Right to rest-break;
 - ✓ Overtime work;
 - ✓ Working in shifts;
 - ✓ Night shift;
 - ✓ Childcare leave, which includes the right to paid leave for the fathers;
 - ✓ Remuneration of work and minimum wage;
 - ✓ Massive layoffs;
 - ✓ Transfer of an enterprise;
 - ✓ A right to strike;
 - ✓ Collective labor mediation;
 - ✓ Information and consultation at the working place;
 - ✓ State supervision over labor rights.
- ▶ In case the Draft Law is passed and adopted in the Parliament, it will enter into force gradually and become fully in force from 1 September 2020.

Source and date of publication: Parliament of Georgia, 27/04/2020

Rules for Disposing of Immovable and Movable Assets Owned by a Child

- ▶ On 1 September 2020, the Law of Georgia on Amendment of the Civil Code of Georgia became effective.
- ▶ According to the amendments which entered into force, disposal of immovable property owned by a child by his/her parent or other legal representative is permitted if approved by a court.
- ▶ Disposal of the movable property with the value above GEL 1,000 owned by a child by his/her parent or other legal representative also needs court approval.
- ▶ The Law became effective from 1 September 2020.

Source and date of publication: the Legislative Herald of Georgia; 27/09/2019.

Electricity Market Rules Approved

- ▶ On 20 August 2020, the Ordinance No. 46 of the Georgian National Energy and Water Supply Regulatory Commission was published on the website of the Legislative Herald of Georgia.
- ▶ Appendix attached to the Ordinance establishes the rules for day-ahead and daily electricity markets, as well as those for the markets for balance and ancillary services.
- ▶ Day-ahead market represents organized, wholesale electricity market (exchange), where electricity power is sold and purchased on hourly basis, on the day preceding physical supply of electricity.
- ▶ As for the daily market, it represents organized wholesale market of electricity (exchange), where sale and purchase of electricity is carried out through extended trading, based on the transaction originated after completion of the day-ahead market.
- ▶ The Ordinance will become effective gradually and enter full force from 1 July 2022.

Source and date of publication: the Legislative Herald of Georgia; 20/08/2020.

Electricity Retail Market Rules Approved

- ▶ On 14 August 2020, the Ordinance No. 47 of the Georgian National Energy and Water Supply Regulatory Commission on the Approval of the Electricity Retail Market Rules was published on the website of the Legislative Herald of Georgia.
- ▶ The rule approved with the Ordinance regulates relationship between supplier, supplier of universal service, supplier of last alternative, distribution system operator and consumers, as well as electricity supply, distribution or/and consumption at the retail market.
- ▶ The terms and conditions established with the Rules are mandatory to all entities carrying out electricity generation, distribution, supply or/and consumption.
- ▶ The Ordinance will become effective from 1 January 2021.

Source and date of publication: the Legislative Herald of Georgia; 14/08/2020.

The Rules for the Special Online Software for Recording Movable Assets Received as Collateral for Cash Demand of the Loan-Issuing Entity

- ▶ On 14 August 2020, the Order No. 119 of the Minister of Internal Affairs of Georgia on Holding and Production of the Special Online Software for Recording Movable Assets Received as Collateral for Cash Demand of the Loan-Issuing Entity (Entrepreneurial Entity) was published on the website of the Legislative Herald of Georgia.
- ▶ The Rule approved with the Order determines rules for using special online software for recording movable assets received as collateral, registration of loan-issuing subject and keeping special online software.
- ▶ The Order will become effective from 1 February 2021.

Source and date of publication: the Legislative Herald of Georgia; 14/08/2020.

Management of the Risks of Data Based Statistic and Artificial Intelligence and Mechanical Learning Models

- ▶ On 17 August 2020, the Order No. 151/04 of the President of the National Bank of Georgia on the Approval of the Regulation for Management of Data Based Statistic and Artificial Intelligence and Mechanical Learning Models was published on the website of the Legislative Herald of Georgia.
- ▶ Objective of the Regulation is to support effective management of the risks of forming risks management framework of statistic and artificial intelligence and mechanical learning models ("Model") and related risks.
- ▶ The Regulation determines the process of building and using models and its basic components, which shall be taken into account by entities subject to the supervision of the National Bank of Georgia. The Regulation specifies following entities: commercial banks, nonbanking depository establishments, microfinance organizations and loan-issuing entities ("Model Using Entities").
- ▶ The Order will become effective from 1 January 2021.
- ▶ From the moment of its becoming effective, the Order will apply to the model built and updated after its entering into force.
- ▶ From 1 September 2021, the Order will apply to all Models used by the Model Using Entities.

Source and date of publication: the Legislative Herald of Georgia; 17/08/2020.

Technical Regulation for the Flavoring Agents to Be Used in/with Food Products and the Food Ingredients Having the Feature(s) of Flavoring Agents

- ▶ On 18 August 2020, the Ordinance-Technical Regulation No. 497 of the Government of Georgia on the Flavoring Agents to be Used in/with Food Products and the Food Ingredients Having the Features of Flavoring Agents was published on the website of the Legislative Herald of Georgia.
- ▶ The Technical Regulation establishes the following:
 - ✓ The list of flavoring agents and their primary materials permitted for using in/for food products.
 - ✓ The terms of use of the flavoring agents to be used in/with food products and the food ingredients having the features of flavoring agents.
 - ✓ The rules for labeling flavoring agents.
- ▶ The Technical Regulation determines the flavoring agents and food ingredients, which are subject to the referred requirements.
- ▶ The Order will become effective from 1 January 2024.

Source and date of publication: the Legislative Herald of Georgia; 18/08/2020.

Consumers' Strong Authentication Rule Approved

- ▶ On 3 September 2020, the Order No. 156/04 of the President of the National Bank of Georgia on the Approval of the Consumers' Strong Authentication Rule was published on the website of the Legislative Herald of Georgia.

- ▶ The Rule determines the issues of carrying out consumers' strong authentication by the licensed commercial bank, registered payment service provider and microfinance organization and applying exceptions to the referred requirement.
- ▶ The Rule determines the issues of protecting privacy and integrity of personified safety characteristics of payment service users and other issues related thereto.
- ▶ The Rule applies to the payer during:
 - ✓ the access online to his/her payment account remotely;
 - ✓ the initiation of online payment transaction;
 - ✓ any action carried out through remote channel, which is exposed to the risk of fraudulent or/and other illicit actions.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 18/08/2020.

The Regulation on Card Tool Approved

- ▶ On 3 September 2020, the Order No. 155/04 of the President of the National Bank of Georgia on the Approval of the Regulation on Card Tool was published on the website of the Legislative Herald of Georgia.
- ▶ The Regulation applies to the licensed commercial banks, registered microfinance organizations and registered payment service providers.
- ▶ Objective of the Order is to regulate the issuance of card tool and electronic money tool in Georgia and the relation between the parties involved in the process of performing transactions using them.
- ▶ According to the Regulation, card tool is the payment instrument, including payment card, mobile phone, computer or other hardware, with corresponding payment application recorded/integrated by using of which the payment may initiate card operation.
- ▶ The Order became effective upon its publication.

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