

# *PwC Georgia Tax & Law Brief*

8 June 2017

---

## **The Draft Amendments to the Law of Georgia on Agricultural Land Ownership**

---

### *Persons holding the agricultural land*

The draft amendment has been submitted to the Parliament according to which:

- The following persons may have the ownership right on the agricultural land:
  - a. A state, a municipality, a legal entity of public law, a citizen of Georgia, household, a legal entity registered in Georgia whose more than 50% shareholder is a citizen of Georgia or a legal entity established by a citizen of Georgia; Commercial bank or microfinance organization, as well as an international financial institution established under Georgian legislation.
  - b. A foreign individual if he meets one of the following criteria:
    - He has a permanent or investment residence permit;
    - The land has been obtained through heritage;
    - The co-ownership of the land is obtained through a marriage with a citizen of Georgia or as a result of being household member that is formed by the Georgian citizens.
  - c. Within the limits provided under the law - legal entity incorporated in Georgia if its founder or more than 50% shareholder is foreign individual.
- In order to obtain the ownership on the agricultural land plot, a foreign individual as well as a legal entity established by a foreign individual in Georgia shall submit the following documents to the Ministry of Agriculture:
  - A registered agreement confirming the use of the land plot for at least 5 years in total;
  - A certificate from the Georgia Revenue Service (GRS) confirming that the property tax has been paid for at least 5 years in total;
  - An investment plan confirming the applicant's intent to use the innovative scientific technologies, biomedical development, dissemination of new technologies etc., the implementation of appropriate capital investments;
  - An evidence (property certificate, bank account statement, bank guarantee) which confirms applicant's material resources related to the capital investment;

### *Documents to be submitted*

***The procedure for  
obtaining the  
ownership on the  
land***

- In order to obtain the ownership of the land, the applicant submits an application to the Ministry of Agriculture. In case the Ministry considers the applicant's request as reasonable, it shall ask for the appropriate municipality council's recommendation. The municipality council determines whether the interested person has at least 5 years experience in the agricultural sector in the territory of Georgia and provides its recommendation on alienating the land. If the recommendation will be in favor of the applicant, the Ministry submits an application with the accompanying documents to the Government of Georgia for the final decision.

***Exemption***

- In special cases, taking into consideration the state and public interests, the land may be handed over to the foreign individual and/or legal entity established by a foreigner without meeting the above-mentioned criteria.

***Owner's special  
obligations***

- In case of violation of the conditions after obtaining the ownership on the land, the person is obliged to sell the land plot within the 1 year. In case of failure this obligation, the Ministry of Economy and Sustainable Development of Georgia ensures the transfer of the land to the state ownership according to the price determined by the Ministry as well.

- It is forbidden for a Georgian legal entity who owns the land:
  - to sell the shares if as a result more than 50% of the authorized capital of the legal entity will be in the ownership of the following persons: foreign individual and or legal entity whose shareholder holding more than 50% of the shares/authorized capital is a foreign individual, foreign legal entity and/or its branch.
  - Public offering of the shares/securities convertible into shares as a result of which more than 50% of the shares/securities may become foreign individual's and/or foreign legal entity's and/or its Georgian branch's property.

***Restrictions  
related to the  
land area***

- According to the draft code, the area of the land plot that the foreign individual/legal entity established by the foreign individual may purchase shall not be less than 5 hectares and the total area of the land belonging to that person shall not exceed 100 hectares.

*Source: The Parliament of Georgia, 29 May 2017*

---

## **The Draft Code on “Environmental Impact Assessment Code”**

---

The Parliament of Georgia has passed on third hearing the draft Code on the Environmental Impact Assessment Code which aims to prevent, mitigate or avoid the harmful effects on the environment.

***Abolishing the  
permit system***

- The draft code abolishes permit system. In particular, instead of the permit, the Ministry issues the Environmental Decision, which is mandatory to perform by the person while carrying out the activity. The Environmental Decision shall be issued within the 51-55 days.

***The procedure  
for issuing  
environmental  
decision***

- The draft code defines the new list of activities that are subject to the Environmental Impact Assessment (EIA), in particular:
  - Activities, that are exclusively subject to EIA.
  - Activities that may be subject to EIA, after passing the screening procedures.

***Screening and  
Scoping  
procedures***

- The screening procedure involves submitting information to the Ministry of Environment and Natural Resource Protection (the Ministry) about the nature, characteristics and location of the activities, based on which the Minister makes a decision and identifies whether the activity is subject to EIA. The term for making of the decision is 10-15 days after submitting the information;
- In case an interested person considers that the activity is subject to EIA, he may submit the Scoping Application to the Ministry and request the Environmental Decision. During the Scoping procedure, the Ministry defines all necessary information and/or researches on the bases of which the EIA report should be prepared by the person carrying out the activity. The Scoping procedure lasts 26-30 Days.

***The grounds for  
refusal***

- The EIA procedures precedes all licenses or permits. However, the person is entitled to start the procedures for obtaining the construction permit and once the environmental decision will be made, he may obtain the construction permit as well.
- The decision on refusal to carry out the activities shall be made at any time on Screening, Scoping and EIA stages. The grounds for the refusal are the following:
  - Violation of the requirements set by the law or by the court/arbitration decision;
  - The EIA Report and/or Expert Conclusion on the basis of which the environmental impact quality and volume are not recognized, it is impossible to prevent environmental impact risk and/or imposing mitigation measures for environmental impacts.

***Oil and gas  
operations***

- The Environmental Decision is not required to be issued on oil and gas operations. This issue shall be regulated by secondary legislations providing for the identical terms to environmental impact assessment.

***The strategic  
environmental  
assessment***

- The draft code introduces the Strategic Environmental Assessment (SEA), which shall be carried out while drafting the documents affecting the environment and human health. SEA also defines the frameworks for activities which are subject to EIA. The Ministry of Labor, Health and Social Affairs also participates in the process of SEA. SEA conclusion is a recommendation.

***The  
transboundary  
impact  
assessment***

- The draft code provides for the Transboundary Impact Assessment procedure. In case of the activity and/or the strategic document has an effect on the foreign environment, TIA provides for the involvement of that State while making the Environmental Decision.

***Appeal of the  
decision***

- Screening, Environmental Decision and/or the Decisions on declaring these decisions invalid may be appealed at the higher administrative body (with the official) or at the court. The individual-administrative

legal act of the Minister on refusal to perform the activity may be appealed at a higher administrative body or court.

*Source: The Parliament of Georgia, 1 June 2017*

---

## **The Law of Georgia on Deposit Insurance System**

---

### **Deposit compensation in case of insurance accident**

- The Law on Deposit Insurance System has entered into force from 2 June 2017 (except some articles defined by the law) and regulates mandatory insurance of deposits of individuals in the commercial banks.
- The law stipulates that commercial banks shall provide insurance contributions into the Deposit Insurance Fund. This in turn guarantees compensation of deposit by the Agency in the event of liquidation, insolvency or bankruptcy proceedings of the bank (an insurance accident). If an insurance accident occurs, an insured deposit is compensated within the limits determined by the law.

### **The Agency**

- The Agency is managed by the Head of the Agency and the Council, which has 5 members: the Minister of Finance, Minister of Economy and Sustainable Development of Georgia, National Bank President and 2 independent members. The Agency also has the following functions: define and receive insurance contributions, ensure the accumulation of the contributions to the Fund, manage the Fund etc.

### **Deposit contributions by commercial banks**

- A commercial bank shall:
  - Make an one off contribution of 100000 GEL in the Fund;
  - Make a regular insurance contribution determined by the law;
  - Make a special insurance contribution requested by the Agency, if the Fund money is not enough to compensate an insured deposit;
- Conditions related to the compensation of insured deposits, regular and special contributions shall enter into force from 1 January 2018.

*Source: Legislative Herald of Georgia, 2 June 2017*

---

## **The Order #151/04 of the National Bank of Georgia**

---

### **Consumer protection**

- From 1 June 2017 the NBG Order #151/04 dated 23 December 2016 has entered into force, according to which financial institutions have the following obligations:
  - To provide consumers with complete, clear and accurate information on the offered financial products/services;
  - To make advertisements and draw up contracts on their services/products in accordance with the NBG instruction;
  - To make relevant notifications to consumers regarding existing financial relations.

*Source: Legislative Herald of Georgia, 1 June 2017*

---

## Let's talk

For a deeper discussion of how this issue might affect your business, please contact PwC Georgia

---

### **Sergi Kobakhidze**

Director, Tax & Law Practice  
E-mail: [sergi.kobakhidze@ge.pwc.com](mailto:sergi.kobakhidze@ge.pwc.com)  
Tel: + 995 32 250 80 50

### **Vano Gogelia**

Head of Legal Services  
E-mail: [vano.gogelia@ge.pwc.com](mailto:vano.gogelia@ge.pwc.com)  
Tel: + 995 32 250 80 50

PwC in Georgia offers Integrated Assurance, Tax, Legal and Advisory services. PwC Network globally employees 208,109 people in 756 locations across 157 countries who share their thinking, experience and solutions to develop fresh perspectives and effective practical advice.

PwC Georgia **Tax Services** includes tax advisory services, tax reviews and tax compliance, transfer pricing compliance, representation during tax disputes, tax structuring, double tax treaty advice, tax due diligence support, customs matters and others.

PwC Georgia **Legal Services** offers a full range of legal support in corporate and commercial law, corporate reorganizations, corporate secretarial work, M&A, competition compliance & litigation, secured transactions, employment law, immigration, construction law and other. With over 2,400 lawyers across more than 80 countries, we have the broadest geographical coverage of any legal services network in the world.

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwC does not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2017 PwC. All rights reserved. PricewaterhouseCoopers Central Asia and Caucasus B.V Georgia Branch refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.