

# **PwC Georgia Tax & Law Brief**

20 March 2017

## **Draft Amendments to the Law on Public Procurement**

The Parliament of Georgia has passed the draft law on the first hearing according to which, changes are made to principles of the law, specifications of procurement object, deadlines of tender, procedures for appeal and technical issues of the law.

### **Proportional approach**

- According to the amendments, one of the purposes of the law - fair approach to participants of public procurement - will be replaced by proportional approach to them. The new principle implies that a contracting authority shall set requirements needed for the certain procurement and such requirements shall not restrict competition among participants artificially.

### **Detailed Specifications in tenders**

- Under the draft law, tender documentation published by a contracting authority, shall include full description of technical, performance and/or functional specifications of procurement object, including plans, drawings, sketches, quality, security, sizes, packaging, marking, labeling, production methods and processes, compliance requirements set by a contracting authority, deadline and place of delivery etc.

### **Deadlines**

- The amendments abolish simplified electronic tender. Under the draft law, there will be only one type of electronic tender and its deadlines will depend on the procurement price. Please see the table below.

Price of product/service	Familiarization with the tender notice/documentation	Submission of tender proposal
Up to GEL 150 000	Not less than 5 days	Not less than 2 days
From GEL 150 000*	Not less than 7 days	Not less than 3 days
Price of construction work	Familiarization with the tender notice/documentation	Submission of tender proposal
Up to GEL 300 000	Not less than 7 days	Not less than 3 days
From GEL 300 000*	Not less than 15 days	Not less than 5 days

\* In case of EU requirements, deadlines shall not be less than 30 days (for the familiarization with the tender notice/documentation at least 25 days and for submission of tender proposal at least 5 days).

***Procedures for appeal***

- If a contracting authority makes changes to the published tender notice/documentation, the deadlines for the participants to familiarize with new information, shall be continued by the period passed from tender announcement to the changes mentioned above.
- According to the draft law, there will be different procedures for appealing tender notice/documentation and selection-evaluation process. While any interested person may appeal tender notice/documentation, in case of appeal of the decision on selection-evaluation of bidders, the claimant shall justify that requirements under the law were breached, as a result of which bidder's rights were infringed.
- Under the amendments, the fee for appeal of the decision on selection-evaluation of bidders to the Public Procurement Agency will amount to 2% of the procurement price, but not less than GEL 100 and not more than GEL 500.

*Source: The Parliament of Georgia, 10 March 2017*

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## **Draft Amendments to the Law on Restructuring of Tax Debts and State Loans**

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The Parliament of Georgia passed the draft law on the first hearing on 10 March 2017.

***No mandatory terms for restructuring applications***

- The draft amendments abolish restrictive term (1 January 2017) for the companies to apply to the Ministry of Finance of Georgia for restructuring their tax and/or loan debts, as well as for the recognition of loan debts as bad debts and for writing them off, for obtaining debt forgiveness and for assignment them to other persons.
- The amendments will effect legal relations from 1 January 2017.

*Source: The Parliament of Georgia, 10 March 2017*

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## **Decision of Tbilisi Appellate Court**

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***Faithfully conduct of company's business***

- The claimant entity (health clinic) sought damages from its former director, on the grounds of failure to perform his duties in good faith. According to the case, one of the employees of the clinic did not provide patient information to insurance organizations. As a result, the clinic could not receive compensation for the services provided to those patients.

- Neither first instance nor the appellate court satisfied the claim. According to the appeals court, the director may be held liable on the ground of mismanagement of an entity. However, in this case there was no systemic misconduct from employees' side and, therefore, no mismanagement by the director could be established.

*Source: Tbilisi Appellate Court, case # №28/1919-15, 6 March 2017*

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## **Let's talk**

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

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