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# *PwC Georgia Tax & Law Brief*

3 May 2017

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## **The Draft Amendment to the Tax Code of Georgia**

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Draft amendments to the Tax Code of Georgia has been published on the Legislative Herald of Georgia, according to which:

### ***Presenting the tax assessment***

- The statutes of limitations for presenting the Revenue Service tax assessment shall not be considered expired if the relevant tax assessment has been placed on the taxpayer's electronic portal by the tax authority before the expiration of statutes of limitations;

### ***Recognition of bad debts***

- An arbitral award will be treated equivalently to court decision with respect to recognition of bad debts;
- The benefits generated by the recognition of the ownership on property under the Law of Georgia on Recognition of Property Rights of the Land Plot Possessed (Used) by the Individual and Legal Entities is exempt from the income tax;

### ***Corporate income tax***

- Distribution of profit through shares/stocks to the partner is not subject to the Corporate Income Tax. According to the draft amendment, distribution of shares in this form will not be treated as capital injection. Therefore, in case of decrease of capital, the reduced amount will be subject to corporate income tax;
- Similar to the Budgetary Organizations, the transactions related to the National Bank of Georgia will not be subject to corporate income tax;
- Payments made to purchase non-resident company's shares or other securities listed on a recognized stock exchange in a foreign country shall not be subject to corporate income tax. In addition, this exemption does not apply to the operations performed with persons registered in countries with preferential taxation.
- Securing of the loan received by the individual partner and by the non-resident, shall be subject to corporate income tax. In addition, securing the loan by the funds placed on the account will be subject to corporate income tax instead of securing the loan by the deposit.
- The tax agreement will be permitted for reduction of unpaid levies and related fines and penalties;

**Withholding at source**

- The obligation to withhold interests on loans paid to the Georgian enterprise will be abolished.

**Write-off the inventory**

- A tax agent who compensates the service or transfers the property to an individual for free, is obliged to withhold at source, unless the recipient is an individual entrepreneur;

**The limit of tax obligation**

- The taxpayer is entitled to write-off the inventory damaged or lost as a result of force-majeure without notifying the tax authority;
- Selling of the apartment (house) with attached land is exempt from VAT if the third party's property is purchased at the auction as a result of third party loan mortgage enforcement.

**Tax evasion**

- The limit of tax obligation that could be repaid with one year delay is increased from 5000 to 50000 GEL.
- Decreasing payable taxes in a tax return in excess of 100 000 GEL will be deemed as tax evasion and entail responsibility in accordance with the criminal legislation.

**Criminal sanctions' abolishing**

- Criminal sanctions will be abolished with respect to the following actions: transporting goods for entrepreneurial activity without waybill, the failure to issue a waybill at the request of the buyer or refusing to accept a waybill when purchasing goods; Output, storage, sale or shipping of non-excisable goods without stamps, which in turn are subject to mandatory marking;

**Excise tax structure**

- Due to the requirements of the EU Directives, the excise tax structure on alcoholic beverages will be changed;

**Distribution of profit**

- Distribution of dividend from the net profit received within the reporting periods of 2008-2016 will be deemed as distribution of profit and their further distribution by the business entities (except an individual entrepreneur) will not be deemed as distribution of profit. In addition, further distribution of dividends received within the reporting periods ended by 1 January 2017 also will not be deemed as distribution of profit.

*Source: Legislative Herald of Georgia, 27 April 2017*

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## **The Draft Amendments to the Law of Georgia on Entrepreneurs**

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The parliament of Georgia has passed the draft amendments on the first hearing, according to which:

**Pre-emption in LLC and JSC**

- Unless otherwise provided for by the charter, in case of share transfer by the LLC's partner, other partners shall have pre-emption right to purchase such shares in proportion with his/her own shares.
- In the JSC, in case of new share issuance, the general meeting is entitled not only to abolish but also to restrict the partner's pre-emption right to purchase the new shares. Restriction or abolition

of this right shall be made based on the Director's or the Supervisory Board's written and substantiated report.

- The rules regulating pre-emption right to purchase the shares will also be applicable for issuing of securities convertible into shares and obtaining the loan liabilities as well, but not for the right to use of conversion or transfer rights from these securities/liabilities.
- The pre-emption right is not applicable to the following cases, unless otherwise provided by the Charter:
  - the shares issued in exchange for non-monetary contributions or as means of performance of obligations;
  - For the redeemed shares by the company with intention for onward placement;
- The shareholder of 5% of any class of shares may request from the competent management body copies of transactions conducted on behalf of the company and/or information on transactions to be conducted;

***Exemptions  
from pre-emption***

***Information on  
the company  
transactions***

*Source: The Parliament of Georgia, 3 May 2017*

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## **Decisions of the Constitutional Court of Georgia**

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***Restrictions on  
sale of Tobacco  
products***

- Law of Georgia on Tobacco Control prohibits the sale of tobacco products in the stores located within 50 meters of general education institutions, schools. The constitutional dispute concerned constitutionality of the above-mentioned rule with respect to right to free enterprise as guaranteed under the Constitution.
- According to the Constitutional Court, in terms of juveniles, there is a significant interest to restrict promotion of tobacco product and therefore, the court held the state to have a wide discretion and upheld constitutionality of the law.

*Source: The Constitutional Court of Georgia, case #1/5/826 21 April 2017*

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## Let's talk

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

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