

# *PwC Georgia Tax & Law Brief*

24 January 2018

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## **Important amendments to the Georgian Tax Code**

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Amendments were introduced to the Tax Code, covering the following:

### *Refund of VAT amount to the VAT payer of European Union*

- The VAT payer of European Union is allowed to request refund of VAT paid on the purchase of goods (except, immovable property) and/or services or during importation of goods in Georgia in case of satisfying certain prescribed conditions.

### *Profit distribution*

- Distribution of profit earned before 1<sup>st</sup> January 2017 by a permanent establishment of non-resident enterprise shall not be subject to profit tax.

### *Exemption from VAT*

- Supply and/or importation of books and goods (picture books, drawing or coloring books, for kids) specified in the code 4903 00 000 00 of National Commodity Nomenclature of Foreign Economic Activities, as well as services in relation to the sales and printing of such goods shall be exempt from VAT with the right to credit.

### *Credit of profit tax*

- A non-resident or a person exempt from profit tax will be entitled to credit an accrued and paid profit tax related to the period 1 January 2008 – 1 January 2017 while performing capital contribution or payment for the purchase of shares.

### *Organizing the market*

- A new article #26<sup>2</sup> was introduced in the tax code - Organizing the market, which defines the terms of granting the status of market organizer and the organizer's liabilities;

### *Georgian residency*

- Under the amendments in the Georgian tax code, except for the cases prescribed by the law, the Georgian residency may also be granted to the natural person who is a foreign country citizen for other cases and under the rules defined by the Minister of Finance;

### *Exemption from Personal Income Tax*

- The period of exemption from Personal Income Tax (PIT) imposed on the revenue received from the operations performed by the natural person engaged in agricultural production was prolonged until 1 January 2023;

### *Exemption from Corporate Income Tax*

- The period of exemption from CIT imposed on the revenue received from the operations performed by an

**Regulatory rules for  
excise tax exemption**

**Exemption from import  
tax**

**Corporate Income  
Taxation in Oil and Gas  
operations and  
operations under host  
government  
agreements**

**Securities**

**Taxation of the revenue  
earned by an**

agricultural cooperative was prolonged until 1 January 2023;

- Alcoholic drinks (liquid) used for the production of pharmaceutical products will be exempted from excise tax without the right to credit.
- Alcoholic drinks (liquid), which is used for the production of drinks, whose level of alcohol does not exceed 1.2% shall be exempted from excise tax without the right to credit.
- The period of exemption from import tax imposed on import of raw tobacco was prolonged until 1 January 2023.
- Under the amendments in the Georgian Tax Code the difference between annual gross income and deductible expenses is subject to corporate income tax for the following profits:
  - Profit gained as a result of oil & gas operations, under the “existing agreements” defined by the law of Georgia on “Oil and Gas”.
  - Profit earned by the participants of the main export pipeline project, which is regulated by international treaty of oil transportation Baku-Tbilisi-Ceyhan main export pipeline.
  - Profit earned by project participant of international agreements regarding transportation, sale and transit of natural gas by south Caucasus pipeline system within the territories of Azerbaijan republic and Georgia.
- According to the changes in the GTC, the term “floating securities” was abolished, therefore the norms that include this concept are also annulled.

Besides, the following transactions related to securities issued by a resident legal entity through public offering in Georgia and vested on the organized market recognized by the National Bank of Georgia will be exempt from personal income tax:

- Income received from supplying such debt securities.
- Interest income received before 1 January 2023 from such debt securities.
- Income received by supplying such participation securities.

*Source: The Legislative Herald of Georgia, 23 December 2017*

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**Amendments to the Order N996 of the Minister of Finance of Georgia**

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- A new article was added to the order of the Minister of Finance of Georgia on administration of taxes according to which revenue earned by the individual through the

**individual through the  
supply of goods**

supply of ferrous and/or non-ferrous scrap metal will be taxable at the source of payment at the rate of 15%.

*Source: The Legislative Herald of Georgia, 29 December 2017*

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## **Important draft Amendment to the Georgian Tax Code**

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**Exemption from CIT**

- Under the draft amendment, higher education institutions will be exempt from CIT.

*Source: The Parliament of Georgia, 11 December 2017*

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## **Important Amendments to the Law on the NBG**

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**Financial Sector  
Representative**

The amendments specify and introduce new definitions, concepts such as Financial Sector Representative (FSR), Loan Issuer, Banking Group, and Credit Information Bureau.

- The term FSR does not cover qualified credit institution, insurance brokerage company and money transfer provider. Therefore, the NBG will not regulate or supervise these persons.
- According to the amendments, the concept of qualified credit institution will not exist anymore. Further, a person, which intends to carry out money transfer service, shall be an agent of payment service provider or shall be registered as a payment service provider.
- A loan issuer is an entrepreneur to which, at the same time, more than 20 individuals owe loan/credit obligation.
- The NBG is entitled to supervise loan issuers, in particular, register them and cancel their registrations at the NBG, inspect and regulate them, provide them with written instructions and restrictions, and impose sanctions on them.
- From 1 January 2019, loan issuers shall register at the NBG and be in compliance with the NBG requirements. Registration obligation does not apply to:
  - A financial institution;
  - A company which issues a loan to its shareholders and/or employees.
- The NBG will adopt further regulations regarding loan issuers until 1 October 2018.
- The term Banking Group indicates the group of legal entities, which cover commercial bank and its head company/companies, subsidiaries, associated and joint ventures of commercial bank and its head

**Loan issuer**

**Banking Group**

company/companies within the country as well as abroad and, which are financial institutions and/or other legal entities/banking holdings involved in banking activities.

### ***Credit Information Bureau***

- Credit Information Bureau is an entrepreneur, which collects, keeps, records, processes, and discloses person's credit information. The NBG will determine rules of providing Credit Information Bureau with credit information and recording such information in its database.
- A loan issuer organization shall provide Credit Information Bureau with the information related to a loan/credit in accordance with the rules determined by the NBG.
- From 1 September 2018, an entrepreneur, which intends to carry out activities as a Credit Information Bureau, shall register at the NBG and meet its requirements. The NBG will adopt regulations related to Credit Information Bureaus before that time.

### ***Restrictions on raising monetary funds***

- An entrepreneur or a group of interrelated persons may not raise returnable monetary funds (including loans) from more than 20 individuals and/or advertise such activity without registration as a Micro Finance Organization at the NBG or obtaining license for non-banking depository or banking activities.
- The NBG authorities are increased in terms of regulating currency exchange offices and the scope of supervision will no longer be limited only to Anti-Money Laundering (AML) regulations. The NBG may adopt consumer protection regulations applicable to currency exchange offices, determine rules for informing consumers and for cancellation of currency exchange transactions.
- The NBG will determine the rules for informing consumers and for cancellation of currency exchange transactions until 1 March 2018.

### ***Currency exchange offices***

- Except for the grounds provided in the current law, the NBG is also authorized to refuse a person to be registered/obtain a license of a FSR if:

### ***Licensing Financial Sector Representative***

- It breached the law or participated in unhealthy, threatening entrepreneurial practice in any form;
- There is insufficient transparency in a group, ownership, governing structure of interested legal entity.

### ***Rule of liquidation***

- The NBG has right to adopt legal acts and regulate liquidation of MFOs, commercial banks and payment service providers.

***Right to request information***

- The amendments specify NBG's authority to request and receive information from FSRs regarding sources of their capital, ownership structure, and direct or beneficial owner of significant share (including origin of property and/or monetary funds).

***Failure to adhere to the AML regulations***

- The NBG may prohibit or restrict right of FSRs to conduct certain types of transactions, distribute profit, issue dividends, increase labor remuneration, bonuses and other similar payments, if financial sector representative fails to adhere to AML regulations.

*Source: The Legislative Herald of Georgia, 11 January 2018*

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## **Important Amendments to the Law of Georgia on Microfinance Organizations**

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***Permitted MFO activities***

- According to the amendments, MFOs will be entitled to conduct functions of the agent of payment service provider and lease the real estate for the purposes of MFO activities.

***Additional NBG requirements***

- The NBG is entitled to determine additional requirements/restrictions for MFO activities by its written instructions.

***Maximum amount of a micro credit***

- The maximum total amount of a micro credit issued by an MFO to a single borrower increased from GEL 50 000 to GEL 100 000.

The amendments cover new capital requirements for MFOs in particular:

***Capital Requirements***

- The amendments introduce new terms, including supervisory, authorized and paid-in capital. A supervisory capital is formed by an MFO for its activities and for prevention of different types of risk, an authorized capital is a capital determined under MFO charter by its shareholders, and a paid-in capital is a capital that is contributed to an MFO in fact.
- MFO shall have at least 1 000 000 paid-in capital in order to be registered at the NBG. The paid-in capital shall be formed only through monetary form.
- MFOs active before these amendments, must increase paid-in capital in the following sequence:
  - At least 500 000 GEL until 1 September 2018;
  - At least 1 000 000 GEL until 1 July 2019.
- MFOs may not reduce paid-in capital during its activities. MFO capital increase may only be made through monetary form.
- The NBG is entitled to regulate the amount and formation of MFO supervisory capital by its legal act.

***Audited financial statements***

- MFO will be obliged to publish a financial statement on its own website annually until 15 June following each reporting year. Financial statements shall be prepared on the basis of the International Financial Reporting Standards (IFRS) and shall be audited in accordance with the International Standards of Auditing (ISA).

*Source: The Legislative Herald of Georgia, 11 January 2018*

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## **Important Amendments to the Civil Procedure Code of Georgia**

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***Protection of intellectual property rights***

- The amendments introduce new procedural rules to protect ownership of intellectual property rights more effectively. The amendments provide for new provisions regarding securing evidence, request of information by courts and provisional measures when a court case is related to the violation of intellectual property rights.

*Source: The Legislative Herald of Georgia, 11 January 2018*

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

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***Property Tax Rate***

- According to the decision N 2/7/667 dated 28 December 2017, the Constitutional Court of Georgia ruled that Tax Code provision that was ground for the tax authority to determine the value of the taxable property at its market price during a tax inspection was unconstitutional.

***Tax pledge/mortgage***

- According to the decision N2/8/734 dated 28 December 2017, the Constitutional Court of Georgia ruled as unconstitutional the provision stipulating that during the urgent field tax audit, the tax authority was entitled to subject taxpayer's entire property to a tax pledge/mortgage irrespective of whether or not the taxpayer had any tax liability.

***Lien on taxpayer's property***

- Further, under the decision N2/8/734, court's authority to rule on applications for confirmation of a lien on taxpayer's property, without a verbal hearing, was declared invalid.

*Source: The Legislative Herald of Georgia, 9 January 2018*

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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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### **Sergi Kobakhidze**

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

### **Vano Gogelia**

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

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