
PwC Georgia Tax & Law Brief

5 March 2018

Amendment to the Order N996 of the Ministry of Finance of Georgia

Electronically provided service

- According to the amendment to the Order N996 of Ministry of Finance of Georgia, additional criteria has been determined for defining electronically provided service for the purpose of place of supply. Specifically, the service is deemed to be provided electronically if the following conditions are met simultaneously:
 - Service is delivered over the internet or an electronic network;
 - The delivery of service is essentially automated and involving minimal human intervention;
 - Provision of service is impossible without involvement of information technology.

Source: Legislative Herald of Georgia, 17 January 2018

Draft of amendments to the Tax Code of Georgia

Changing mechanism of taxation for organization

- According to the draft amendment, organizations conducting economic activities will be tax by Corporate Income Tax (CIT) under the new rule. Specifically, the following operations will be subject to CIT:
 - Incurred expenses not related to economic activities and/or purpose of organization;
 - Free of charge supply of goods / delivery of service and/or transfer of funds, when it is not related to purpose of organization;
 - Incurred representative expenses that exceeds the limit determined by Georgian Tax Code (GTC).
- The administration rules will be changed as follows:
 - Reporting period for CIT will be calendar month;
 - Tax return should be filed no later than 15th the following reporting month;
 - Obligation of installment payment will be cancelled.
- Generally, a company/organization or an individual entrepreneur who reimburse the service fee amount to individuals should withhold tax at the source of payment.

Withholding Tax applicable on

payments to individuals

However, the list of recipients who will not be subject to taxation at source will include the following:

- Individual entrepreneur;
- Individual registered as a VAT payer;
- Notary;
- Private executive;
- Individuals having micro business / fixed payers status;

Long term contract

- Special regulations governing the Valued Added Tax (VAT) treatment of long term contracts will be cancelled. The amendment will concern the contracts concluded after 1 January 2018. Contracts put in place before this date will be subject to VAT rules effective before 1 January 2018.

VAT exemption with the right to credit

- Technical maintenance provided for aircrafts will be exempt from VAT with the right to credit.

Refund of Excise

- Importer would be authorized to refund 100% of paid excise amount, instead of 50%, to the vehicles under the codes 8703 and 8711 of National Commodity Nomenclature of Foreign Economic Activity. This rule will apply in case if the vehicles will be placed into export regime within 90 days, instead of 15 days, following the date of its importation.

Excise exemption

- Vehicles under the code 8703 of National Commodity Nomenclature of Foreign Economic Activity will be exempt from excise, in case of:
 - It is originally adapted for use of disabled persons; and
 - Importer is a disabled person who moves with a wheelchair.

Corporate Income Tax

- The date of switching to new CIT regime of commercial banks, credit unions, insurance companies, microfinance organizations and pawn shops will be extended from 1 January 2019 to 1 January 2023. Respectively, the relevant changes will be made with respect to dividends distributions by such companies, specifically:
 - Distribution of dividends received from the above mentioned companies and related to the profits earned from 1 January 2008 to 1 January 2023 will not be deemed as profit distribution;
 - Distribution of profits to the above mentioned companies is deemed profit distribution, if the profits belong to the period from 1 January 2008 to 1 January 2017;
 - Distribution of profits to the above mentioned companies is deemed profit distribution, if the profits belong to the period from 1 January 2017 to 1 January 2023 and are distributed before 1 January 2023;

Small business status

- Statutory limit for opting for small business status will be increased from GEL 100 000 to GEL 500 000. Respectively, compulsory registration as a VAT payer shall not be grounds for losing the small business status.
- Income of small business status person will be taxed at 1% rate, instead of 5%.
- It will be mandatory to issue a waybill during transportation and supply of goods for cases established GTC.

**Appealing of
advance tax ruling**

- The following administration rules will be changed:
 - The reporting period of tax declaration will be on monthly basis;
 - Due date for filling and payment of the tax liability will be no later than 15th following the reporting month;
 - Obligation of instalment payment will be canceled;
 - Tax return should be filed before 1 April of 2019 of the reporting period from 1 January 2018 to 1 July 2018.
- Advance Tax Ruling (ATR) will no longer be appealed at the level of Georgian Revenue Service. Persons will be authorized to appeal ATR at the level of the Ministry of Finance.

Source: Legislative Herald of Georgia, 22 February 2018

The Order #34/03 of the President of the National Bank of Georgia

**Offer and/or
advertising sale of a
property and/or
service in Georgian
Lari**

- Under the amendments, requirement for quoting price in GEL for offer or advertisement of property or service on the territory of Georgia is not applicable in the following cases:
 - In case of offer of hoteling and/or tourism services, if the service recipient is a non-resident person;
 - In case of rendering a service and/or performing a work and/or delivery of goods for a non-resident person and carried out in a foreign language. This exception does not apply to outdoor advertising on the territory of Georgia.
- Entrepreneurs shall bring their activities into compliance with the above-mentioned requirements until 1 April, 2018.

Source: Legislative Herald of Georgia, 23 February 2018

Draft Law of Georgia on Labor Safety

**Registration of the
activities**

- The Parliament of Georgia has passed the draft law on Labor Safety on the second hearing, which provides for the general principles and obligations of the employers in terms of workplace safety. The draft law will apply to hard, harmful or hazardous works. The Government of Georgia will determine the list of such works within 6 months from the effective date of the draft law.
- Under the draft law, any person carrying out activities related to hard, harmful, or hazardous work shall register such activities at the Registry of Economic Activities within the system of the Public Registry.

A labor safety specialist

Equipment safety

Trainings

Employee awareness about the risks related to the work

- According to the draft law, an employer has a number of obligations, including:
 - To appoint one or more employee as a labor safety specialist or create a labor safety unit. The labor safety specialist shall pass an appropriate accredited program. The Minister of Labor, Health and Social Affairs of Georgia shall determine scope, terms and procedures of the program;
 - To check regularly the safety of the equipment;
 - To carry out the relevant trainings for the employees on the work procedures, on the use of the machines and other techniques;
 - To provide the employees with the relevant information about the professional risks and hazardous industrial factors that might have an impact on their health.
 - To take the necessary measures to ensure first medical aid, fire safety and evacuation, taking into consideration the size of the enterprise, activities and other conditions.

Source: The Parliament of Georgia, 22 February 2018

Draft Amendments to the Product Safety and Free Movement Code of Georgia

Sanctions

Implementation of the unauthorized construction / reconstruction

Violation of the permit condition

The Parliament of Georgia has passed the draft amendments to the Product Safety and Free movement Code of Georgia on the second hearing.

According to the draft amendments, the sanction will be increased for violation of construction rules in the following territories: special zone of construction, territories defined by the Forest Fund and under the Law of Georgia on Water, cultural heritage protective zones and resort-recreation Zones, territories within the City of Tbilisi. With respect to the mentioned territories:

- Implementation of unauthorized construction and/or reconstruction which leads to a change of an overall dimension is subject to penalty:
 - In case of the real estate owned by the state and self-government unit – in the amount of 25,000 GEL (instead of 10,000 GEL);
 - In case of III or IV class buildings that are in private ownership – in the amount of 20,000 GEL (instead of 8,000 GEL);
- Construction in breach of permit terms is subject to penalty:
 - In case of III class building – 10,000 GEL (instead of 3,000 GEL);

- In case of IV class building – 15,000 GEL (instead of 4,000 GEL);
- In case of V class building – 20,000 GEL (instead of 5,000 GEL).

Construction safety rules

- The penalty for the breach of construction safety rules is 30,000 GEL (instead of 3,000 GEL).

Construction suspension

- Failure to fulfill the Decree of the Supervision Authority on Construction Suspension is subject to a fine in the amount of 50,000 GEL (instead of 5,000 GEL).

Source: The Parliament of Georgia, 22 February 2018

Draft Amendments to the Administrative Offences Code of Georgia

Issuing the loan in GEL

The Parliament of Georgia has passed the draft amendments to the Administrative Code of Georgia on the second hearing.

- According to the draft amendments, violation of the requirement to issue the loan up to 100,000 GEL for an individual only in GEL will result in a warning. Failure to correct the violation within 1 month after receiving the warning, will be subject to fine in the amount of 1,000 GEL.
- The draft amendments do not apply to the Financial Sector Representatives as defined under the Organic Law on National Bank of Georgia, whose activities are specially regulated by the National Bank.

Source: The Parliament of Georgia, 22 February 2018

Draft Amendments to the Civil Procedure Code of Georgia

Cases subject to consideration of the magistrate judge

- The Parliament of Georgia has passed the draft amendments to the Civil Procedure Code of Georgia on the third hearing. According to the draft amendments, magistrate judges will hear at the first instance the following cases:
 - Property disputes, provided that the value of the claim does not exceed 5,000 GEL (instead of 2,000 GEL);
 - The non-contentious matters and summary proceedings, other than adoption cases or summary proceedings related to the claims for payment of damages and declaring the property ownerless, provided that the value of the claim or the property exceeds 5,000 GEL, instead of 2,000 GEL.

Exclusive jurisdiction

- Under the amendments, the claims related to loan (credit) agreements, including electronic agreements, concluded by the Georgian Banking Institutions, Microfinance Organizations, Non-banking Depository Institutions – Qualified Credit Institutions, shall be filed with a court according to the place of residence of the defendant.

Cases subject to consideration by a single judge of the court of appeal

- A single judge of the civil chamber of the court of appeal may hear the following cases:
 - Property dispute the value of which does not exceed 20,000 GEL (instead of 10,000 GEL);
 - The complaint against the 1st instance court ruling on dismissal of a complaint and upholding default judgment.

Cases subject to consideration without an oral hearing

- The area of cases subject to consideration without an oral hearing will be expanded. In particular, with the preliminary written consent of the parties, the court of appeal may consider the case without an oral hearing if the complaint is related to:
 - 1st instance court ruling on dismissal of the complaint and upholding default judgement;
 - recovery of the property from illegal ownership;
 - the loan (credit) agreements, including electronic agreements concluded by the Georgian Banking Institutions, Microfinance Organizations, Non-banking Depository Institutions – Qualified Credit Institutions;

Admissibility of the complaint

- An appeal in a property dispute will be admissible only if the value of the subject matter of the dispute exceeds 2,000 GEL (instead of 1,000 GEL).

Source: The Parliament of Georgia, 23 February 2018

Decision of the Court of Appeal

Application of the provisional measures in alter ego cases

- The Georgian Revenue Service filed a claim in first instance court to seize a property of a person for the tax assessment imposed on another taxpayer based on alter ego theory. The court dismissed the claimant's demand on application of the provisional measures for seizing the property.
- The court of appeal reversed the judgment and satisfied the claimant's demand on application of the provisional measures. According to Appeals Court if it is established that it is virtually impossible to differentiate the taxpayer from any other person and the latter is used for tax evasion, these persons shall be deemed for tax purposes alter egos between each other. Therefore, to enforce payment of the taxpayer's recognized outstanding tax liability, the tax authority may undertake enforcement measures against an alter ego person.

- The court ruled, that unless the provisional measures are applied, there is a risk that the defendant will dispose the property and therefore make enforcement impossible.

Source: Electronic Law Library, 30 January 2018

Let's talk

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

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