

# PwC Georgia Tax & Law Brief

13 June 2018

## Amendments to the Instruction Established by the Order N996 of Minister of Finance of Georgia

### *Determining market price rule for valuation of taxable property*

- The amendment establishes a rule for determining market price of a taxpayer's taxable property during tax audit process. The tax authorities are entitled to determine the value of taxpayer's immovable taxable property (except land) at market price if the market price of a taxable property exceeds its book value.
- The tax authorities are not allowed to value taxable property in following situations :
  - If the market price of taxable property does not exceed its book value more than 10%;
  - In respect of construction-in-progress;
  - In respect of property which is exempt from property tax;
  - In respect of taxable property, which is revalued in every 3 years period and revaluation (market valuation) fully covers tax inspection period (years).
  - In respect of taxable property which is purchased by taxpayer within the tax inspection period;
  - In respect of taxable property contributed into capital that was revalued by the previous owner (partner) and has not passed three years after its revaluation.
- In case of assessing principal amount on the difference between market price and book value of taxable property:
  - Assessed principal amount of property tax will not be deemed as understatement of taxes;
  - Late payment interest will be charged after 30 days of receiving the tax notice;
  - The entity is liable to use the determined market price during the following three tax years.
- Above rule does not apply to:
  - If a company accounts its immovable property listed on the balance sheet using a revaluation model and has an

### *Exceptions*

### *The outcomes of determining the value at market price*

audited financial statements. In addition, audited financial statement can be used only for 4 years;

- State companies determined by the government resolution;
- When tax legislation allows determining tax liabilities of property tax at market price without the ground of the Article 202, 41 of GTC (e.g. value of taxable property of a natural person; revealing of surplus of fixed assets subject to property tax; when it is impossible to determine the book value of taxable object based on the available documents).

Source: Legislative Herald of Georgia, 11 June 2018

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## Draft Amendments to the Civil Code of Georgia

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### **Restrictions on securing loan agreement with pledge and mortgage**

- Draft amendments to the Civil Code of Georgia was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing. Under the amendments, securing of loan/credit agreement with an individual (including an individual entrepreneur) is restricted as follows:

- **Pledge** – a lender may not pledge vehicles (indicated in Article 53.1 of the Law of Georgia on Traffic), supplementary technical equipment for agricultural vehicles, also water, air or railway vehicles.
- **Mortgage** – a lender may not mortgage immovable property belonging to a borrower or any other natural person. The above-mentioned restrictions on securing loan/credit agreement do not apply to entities supervised by the National Bank of Georgia such as commercial banks, MFOs, non-bank depository institutions and loan issuers.

### **Satisfaction with pledged or mortgaged assets**

- If loan/credit is granted to an individual (including an individual entrepreneur) a claim shall be deemed to have been satisfied even if the proceeds from the sale of the pledged/mortgaged assets or the value of such assets are not enough to fully cover the claim. Any agreement otherwise will be deemed invalid.

### **Method of Payments**

- For real estate purchase agreements, the only payment method is non-cash. Possible changes apply to any person, who executes real estate purchase agreement.
- If the loan is secured with immovable property, vehicles (indicated in Article 53.1 of the Law of Georgia on Traffic), supplementary technical equipment for agricultural vehicles, or with water, air or railway vehicles, the loan shall be provided through bank transfer.

### **Restrictions on receiving fees tied**

- For an instalment sales agreement, if the buyer is an individual (including an individual entrepreneur) and the price of property does not exceed 100,000 GEL, the seller may not be tied or indexed a receipt of item price to a foreign currency.

**or indexed a  
foreign currency**

- If the fee for a finance lease does not exceed 100,000 GEL and the lessee is an individual (including an individual entrepreneur), the lessor may not tie or index the fee to a foreign currency.
- An annual effective interest rate is decreased from 100% to 50%.
- A loan in the amount of 1,000 GEL will no more be subject to exceptions, in particular the monthly interest rate and expenses of any mortgage-backed loan shall not exceed the rate indicated in the Civil Code of Georgia.

**Amendments to a  
loan agreement**

- Amount of fees, financial expenses and penalties will be changed as follows:
  - Shall not exceed 0.27% of the remaining principal amount of the loan, for each day due to violation.
  - For the purposes of 0.27%, financial sanctions shall not include:
    - (i) In the case of a delay in payment, a single penalty imposed on a borrower amount of which does not exceed 20 GEL;
    - (ii) A fee and/or a penalty for advance payment.
  - Any fees, financial expenses or penalties imposed on a borrower in total shall not exceed the remaining principal amount of the loan 1.5 times.
- These amendments shall cover loan/credit agreements executed prior to the entry into force of the present amendments if the loan/credit is postponed in any form, restructured or refinanced.

Source: The Parliament of Georgia, 6 June 2018

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## **Draft Amendments to the Organic Law of Georgia on the National Bank of Georgia**

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**Group of  
Interrelated Persons**

- Draft amendments to the Organic Law of Georgia on the National Bank of Georgia was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing. According to the draft amendments a Loan Issuer will include not only the lender itself, but a group of interrelated persons, if more than 20 natural persons (including an individual entrepreneur) have obligation under loan/credit agreement before them.
- For the purposes of the present amendment, the following persons will be deemed to form a group of interrelated persons:
  - (I) Persons who own 50% or more than 50 % of shares in each other's companies:

(II) Persons who own each other's head enterprises/organizations or/and their subsidiaries or/and affiliated entities or/and joint enterprises;

(III) Persons who are first and second line heirs.

Source: The Parliament of Georgia, 6 June 2018

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## Draft Amendments to the Code of Georgia on Administrative Offences

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### **Sanctions on violating method of payments**

- Draft amendments to the Code of Georgia on administrative offences was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing. Under the draft amendments, if a person (excluding entities supervised by the National Bank of Georgia) violates the method of payment in relation to mortgaged/pledged loan agreement, he/she will be warned and if not remedies the breach will be fined 10,000 GEL. The same sanction applies to real estate purchase agreements.

### **Sanctions on receiving fees tied or indexed to a foreign currency**

- If a person (excluding entities supervised by the National Bank of Georgia) ties or indexes a receipt of the price of the instalment sales agreement not exceeding 100,000 GEL, he/she will be warned and if not remedies the breach will be fined 1,000 GEL. The same sanction applied to finance lease fee, not exceeding 100,000 GEL.
- According to the draft amendments, termination of the agreement or modification of the relevant provisions of the contract may remedy the violation.

Source: The Parliament of Georgia, 6 June 2018

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## Draft Amendments to law of Georgia on Licenses and Permits

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### **Possibility to issue a license directly**

- The Parliament of Georgia passed the draft amendments to law of Georgia on Licenses and Permits with the III reading. The process of issuing a license for extracting underground fresh water is to be simplified. According to the current version of regulations, a license is issued through auction. However, these amendments will make it possible to license directly in the following cases:
  - *Providing population with drinking water* – in this case the license is directly granted to (i) a person holding a license of water supply, or (ii) private legal entities established by the self-government body. The license issuer will need consent from the Government of Georgia to issue such licenses directly.
  - *Upon the initiative of a private owner* – the license is directly granted to the owner for extracting underground fresh water located under his/her ownership for commercial purposes. In this case a license will be granted to extract no more than 5,000 cubic meters in a year.

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## Order on Approval of Real Estate Valuation Guidelines for Commercial Banks

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### *Process and methods of valuation*

Starting from 1 June 2018, commercial banks shall make valuations of real estate according to the new order, in particular:

- Valuation of a real estate shall be done in accordance with international valuation standards (IVS) standards.
- A commercial bank shall ensure unbiased and independent process of valuation. Also, it shall prevent persons who have been involved in finding client or client's credit assessment process, from taking participation into real-estate valuation process.
- Valuation of real estate shall be done by a professional appraiser regardless the market value of the property.
- The order establishes the following methods of valuation:
  - Cost method;
  - Market price method;
  - Income method.
- The instruction recommends valuation of complex real estates (business-center, shopping mall, hotel and etc.) by applying the above three methods simultaneously.
- An appraiser may be an internal or external person, who is qualified, experienced and has relevant skills, knowledge of IVS and holds high reputation.
- An external appraiser shall value real-estate in the following cases:
  - If the crediting person is related with the bank;
  - If the bank owns the property subject to assessment;
  - While re-evaluating real estate, providing that the property is being recruited and the market value of mortgaged assets is at least 1 million GEL.
- The National Bank of Georgia may request a commercial bank to suspend/restrict rights and obligations of internal/external appraisers, or modify the agreement executed by the external appraiser.
- A commercial bank shall be responsible for conducting real-estate valuation (internal/external) process.
- If a commercial bank breaches the present instruction the National Bank is entitled impose relevant sanctions.
- Breach of rules and provisions of the instruction may not result in invalidity of the agreement.

### *The appraiser*

### *Outcomes of breaching the instruction*

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## Amendments to Decree of Government of Georgia on Issuance of Construction Permits and Permit Conditions

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### **Construction of Line Structures**

- Preconditions for constructing Class I line structures (power lines, pipelines, water or sewage pipes) in Tbilisi are changed:
  - The person, willing to construct line structures on the public territory or the territory owned by the state/self-governmental body, is no more obliged to attach to the application a consent of the administrative body. In this case the Government of Tbilisi will itself forward the application to the authorized administrative body.
  - Moreover, the discretion of self-governmental body to decide on need for the construction permits, does not apply to the construction of line structures mentioned above.

*Source: Legislative Herald of Georgia, 6 June 2018*

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## Decisions of the Competition Agency of Georgia

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### **Validity of requiring only bank guarantees in public procurement**

- The Competition Agency has found the claim of the insurance company “Unison” admissible and decided to investigate the case. The alleged violation is about the compliance of the procurement requirement – to accept only bank advance payment bank guarantee- with the Competition legislation.

### **The Agency refused to start investigation on the costs for Check-in**

- The Agency has studied a claim against the TAV Urban Georgia (company) which provides airport services. The claim alleged the company abused a dominant position while defining costs for Check-in.
- The Agency informed the applicant that costs for Check-in were defined by air companies themselves and not by TAV. The company has only imposed fees for passenger boarding amount of which was agreed with Ministry of Economy and Sustainable Development of Georgia and United Airports of Georgia LLC. Thus, the Agency decided to dismiss the case as TAV was not relevant party.

*Source: The Competition Agency of Georgia, 6 June 2018*

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Let's talk

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

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