



Georgia

Deloitte Legal

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Georgian Legal News Refer to the Law

Order N633 of the Minister of Finance of Georgia

Several important amendments were made to Order N633 of the Minister of Finance of Georgia of 28 September 2011. The changes concerns the usage of tax privileges under international double taxation agreements and the rules for returning taxes paid by non-residents in Georgia. Certain clauses were amended and added to Article 3, which refers to the non-resident declaration (Form N2) on paid/detained taxes in Georgia and requests the return of these amounts:

- Paragraph 1¹ was added to Article 3, setting forth that: "The reason and basis for withholding tax in Georgia must be described by the non-resident or legal/authorised representative of the non-resident and the tax agent.";
- Subparagraph d.a of paragraph 6 was edited. The non-resident receiver of income verifies whether he/she is the receiver of the income/beneficiary owner in section 11 of part IV of Form N2. Herewith, a non-resident is only required to provide information regarding the beneficiary owner(s) of the income.

Labour Code of Georgia

A bill proposing amendments to the Labour Code of Georgia was submitted to the Parliament of Georgia on 27 April 2020. The bill proposes deleting paragraphs 4-7 of Article 4 which refer to discrimination in labour relations. Only Articles 1 and 3 from the current edition of the Labour Code will be kept, while Article 4 onwards will be amended. The bill will also alter the numbering of Articles in the Labour Code and increase their number from 55 to 86.

The amendments will affect the definition of discrimination in labour relations. The proposed changes will bring the definition of discrimination closer in line with that in the Law of Georgia "On the Elimination of All Forms of Discrimination" and repeat clauses related to direct and indirect discrimination, the scope of anti-discrimination enforcement, the principles of equal treatment and other aspects.

Important changes will be made to the legislative records related to labour agreements and their terms, namely: a written agreement must be concluded if labour relations are to last for more than one month. Herewith, a legal regulation will be introduced for agreements signed for less than one year: if a definite-term labour agreement is concluded without grounds justifying the term of less than one year, it will be considered as a permanent labour agreement. It is noteworthy that this approach was first established in judicial practice and now the same interpretation is consolidated in the proposed edition.

The bill also defines the terms for incomplete (part-time) work and the rights and obligations of employers and employees under such relations. It is worth mentioning that the new edition proposes a definition for an internship, its understanding and the terms for paid and unpaid internships.

The amendments stipulate minimum break times for employees (at least 60 minutes for six hours of work), as well as the essential rules for organising shift work, the conditions for overtime work, the upper limit (two hours per day, four hours per week) and the minimal amount of compensation for overtime work (125% of hourly salary). The bill sets out additional regulations related to restrictions on night work.

Article 41 of the bill concerns employment reimbursement and states that reimbursement for employment shall not be below the minimum wage. According to this clause, the mechanism for defining the minimum wage, its scope and regulations to protect reimbursement is set to be regulated by a law on minimum reimbursement.

The alterations will also affect issues related to the termination of labour relations: an employee can appeal the employer's decision to terminate labour relations within 30 calendar days of receiving written explanation. The employee can recurrently appeal to the court if the case is dismissed and/or the plaintiff withdraws the action within 30 calendar days of the judgement dismissing the claim without prejudice based on either the dismissal of case or the withdrawal of the action by the plaintiff. An employee can appeal in court against disciplinary measures within 30 calendar days after measures are issued by the employer.

The amendments include regulations on the transfer of an enterprise and forbids the termination of labour relations based on these grounds.

Significant definitions were added to collective agreements and provisions regulating strikes and lockouts. Herewith, strikes can only be restricted for employees working in "vitaly significant services".

The bill established a general period of limitations of one year. This regulation does not apply to disputes related to the termination of labour relations.

The proposed edition defines the authority of labour inspection to impose administrative penalties. the types and amounts of administrative penalties for violating provisions of the Labour Code will be determined at a later date.

The amendments to the Labour Code of Georgia also envisage the initiation of a new Law "On Labor Inspection" and adjustments to various legislative acts: the Organic Law "On Labour Safety", the Law "On Enterprises", etc.

Tax Code of Georgia

Several important amendments to the Tax Code of Georgia entered into force on 22 May 2020:

- In the six calendar months starting from 1 May 2020, employers are authorized to reduce (not pay to the budget) income tax on salaries of less than GEL 750 paid to its employees, if the salary received by the employee from the same employer within one calendar month does not exceed GEL 1500. The abovementioned does not apply to budgetary organizations, the National Bank of Georgia or the national regulatory authority. It should not also be applicable to an entity in which state or municipality has an ownership of more than 50% or any of its subsidiary in which such entity holds more than 50% ownership;
- In the six calendar months starting from 1 March 2020, renting a property/providing services through leasing will be taxed for VAT purposes in the reporting period when the corresponding compensation/installment for the relevant services are actually received;

- The Minister of Finance/Head of the Revenue Service of Georgia is authorized until 1 January 2021 to extend the period specified in the Tax Code of Georgia for the payment of income tax and/or property tax that are due to be paid in 2020 (including February, March, April and May 2020). In this case, taxpayers will not be accrued additional fines;
- The following property is exempt from property tax (including the current tax) payable in 2020:
 - property used for hotels and similar accommodation facilities;
 - property used for leisure and other short-term accommodation services;
 - property used for restaurants and mobile food services;
 - property used by travel agencies, tour operators and other bookings and related services.

The abovementioned tax exemption also applies to property rented, leased or otherwise transferred if such property is used for any of the aforementioned activities.

- Providing incorrect information to the tax authorities leading to the unjustified issuance of COVID-19-related compensation to an employee of Georgia, as defined by Resolution 286 of 4 May 2020, will result in a twofold fine for the employer.

Public Ruling of the Minister of Finance of Georgia N107

On May 5, 2020, the Minister of Finance issued Public Ruling N107 on the applicability of property tax for right-of-use assets. According to the ruling, right-of-use assets under lease agreements, which are recorded in fixed assets by the taxpayer (lessee) in accordance with Accounting and Financial Reporting Standards, are not subject to property tax for the taxpayer (lessee).

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