

EY TAX AND LAW BRIEF

Summary of the Year 2020

Amendments to the Tax Code of Georgia

- ▶ On 22 July 2020, the Law of Georgia on Amendment of the Tax Code of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The legislative amendments will refer to all VAT regulating provisions included in the Tax Code of Georgia and the 6th Chapter of the Code is fully presented in new edition. Objective of the referred amendments is approximation of the Georgian tax legislation with the Directive 2006/112/EC of the Board dated 28 November 2006 on the Common Value Added Tax (VAT) System by Georgia, subject to the Association Agreement with the European Union. New VAT regulatory norms became effective from 1 January 2021.
- ▶ Herewith, significant amendments were made to the Tax Code of Georgia in regard to the Corporate Income Tax. Based on the amendment, gratuitous delivery of goods, rendering services or/and transfer of cash resources will not be subject to CIT to the entities taxed with CIT upon profit distribution.
- ▶ Herewith, Subparagraph “f1” of the Section 3 of the Article 174 was removed from the Tax Code, which foresaw restriction in regard to the period of credit input VAT based on the customs declaration.
- ▶ Significant amendments were also made in regard to the property tax. In particular, the objects of property tax for the resident entity/organization were added with the real estate, yacht (cutter), helicopter, plane, and other means of transportation received within the framework of the activities guarantying performance of contractual liabilities, and purchased through auction, direct trade or other rules within the framework of enforcement of payment of monetary liabilities (except the sanctions imposed by the criminal and administrative rules).
- ▶ Herewith, it was determined that calculation of the property tax of the physical person on the taxable property will be performed during the tax period, in proportion to the period of ownership of such property.
- ▶ Based on the amendments, the yield received by the employer by paying insurance premium in favor of the employee within the mandatory insurance subject to the Georgian legislation will not be included in the income earned in the form of a salary.
- ▶ Herewith, such income will not include compensation of transfer of residence or rendering food services or/and other costs related thereto by the employer for the employee, provided that all the following terms and conditions are observed:

- ✓ Provision with residence/rendering food service is made in terms of the specifics of the activities of the employer and represents mandatory term for due performance of the liabilities undertaken with the employment agreement by the employee or/and provision of the employee with the residence/food without guaranty of the employer, requires incurring unreasonable expenses or/and wasting unreasonable time by the employee.
 - ✓ Transferring residence for use or/and rendering food service or/and compensation of the expenses related thereto, does not represent the part of remuneration foreseen with the employment agreement existing between the employer and the employee.
- ▶ The Code was also supplemented with the new status of an entity - investment funds, representing joint investment funds or investment companies established in compliance with the Georgian Law on the Investment Funds. Activity related to the management and administration of the investment fund, as well as rendering deposit service to the investment fund, is considered to be the financial service. Herewith, the investment funds will use certain tax benefits.
 - ▶ The amendments also determined the rules related to the reporting of the group of multinational entities. It is noteworthy that the extreme parent entity of the group of multinational entities, which is Georgian resident, will be obliged to provide the tax authority with the report on the countries until 31 December of the year following the reporting year.
 - ▶ Above amendments, except VAT related ones, became effective upon their publication.

Source and date of publication: the Legislative Herald of Georgia; 22/07/2020.

Amendments to the double taxation treaty based on the multilateral tax convention

- ▶ On 23 July 2020, English and Georgian versions of the wordings of the amendments to the double taxation treaties signed by and between Georgian and Finland, Georgia and Island, Georgia and Ireland, Georgia and Luxemburg, and Georgia and Slovenia were published on the website of the Ministry of Finance.
- ▶ The referred wordings reflect the amendments made based on the enforcement of multilateral convention for introduction of the activities related to the tax agreements for reduction of taxable base and prevention of profit transfer on 1 July 2019.

Source and date of publication: the website of the Parliament of Georgia; 23/07/2020.

Amendments to the tax administration rule

- ▶ On 31 December 2020, the Order of the Minister of Finance of Georgia on the amendment of the Order No. 996 of the Minister of Finance of Georgia on Tax Administration was published on the website of the Legislative Herald of Georgia. The amendments are aimed at the conformity of the Order No. 996 to the amendments made in the VAT Chapter of the Tax Code of Georgia. Among other issues, following were determined with the amendments:
 - ✓ The rule of VAT calculation, settlement with budget and informing of the foreign taxable entity;
 - ✓ The rule of providing all or part of assets by a taxable person to another taxable person;
 - ✓ In separate cases, the rule of VAT taxation and paying VAT amount to the budget;
 - ✓ In case of providing secondhand items, art works, collections, or antique items, the rule of applying special scheme of VAT taxation.
- ▶ This Order became effective from 1 January 2021.

Source and date of publication: the Legislative Herald of Georgia; 31/12/2020.

- ▶ On 31 December 2020, the Order of the Minister of Finance of Georgia on the amendment of the Order No. 996 of the Minister of Finance of Georgia on Tax Administration was published on the website of the Legislative Herald of Georgia. According to the amendments, the liability and rule of reflecting information about employees in the Registry of Employees by the Employer were determined.
- ▶ The Order will become effective from 1 February 2021.

Source and date of publication: the Legislative Herald of Georgia; 31/12/2020.

Amendments to the Labor Code Are in Force

- ▶ On 5 October 2020, the Law on Amendment of the Labor Code of Georgia was published on the website of the Legislative Herald of Georgia. The most part of the mentioned Law is in force from its publication date.
- ▶ The amendments apply to such issues as prohibition of discrimination, material terms of labor agreement, remuneration of labor and overtime work, collective redundancy, information and consultation on the workplace etc.
- ▶ Along with other changes, the Law determines legal status of an intern and the rule and conditions of signing agreement with him/her.
- ▶ The Law foresees the institute of transfer of an undertaking, which has not been envisaged in the Labor Code before.
- ▶ The sanctions to be applied in the event of violation of the requirements of the Labor Code have also been determined.
- ▶ The Law on Amendment of Labor Code of Georgia became effective gradually and will enter in full force from 1 September 2021.
- ▶ The Law of Georgia on Labor Inspection, which is in force from 5 October 2020, was approved within the framework of the labor law reform.
- ▶ The package of amendments to the Labor Code also foresees related legal amendments in other acts, including the Law of Georgia on Occupational Safety, Administrative Procedural Code of Georgia etc.

Source and date of publication: the Legislative Herald of Georgia; 05/10/2020.

Amendments to the Law on Competition Are in Force

- ▶ On 21 September 2020, the Law on Amendment of the Law of Georgia on Competition was published on the website of the Legislative Herald of Georgia.
- ▶ The Law amended the concept of an economic agent: it is specified that a physical person may also be an economic agent.
- ▶ Along with other changes, the Law determines the penalty to be imposed on the persons, who are obliged to submit mandatory notice (in case of existence of corresponding preconditions), due to the failing to submit the notice on concentration. Amount of such penalty shall not exceed 5% of the annual turnover of a person obliged, during the financial year preceding that of receiving corresponding decision by LEPL Competition Agency.

- ▶ The Law establishes the right of LEPL Competition Agency to demand cancellation of concentration by applying to the court, should the Agency consider it materially restricting effective competition.
- ▶ The Law also determines the cases, when LEPL Competition Agency is authorized to carry out control of observance of the Competition Law in the regulated field of economy. For example, regulated field of economy includes those determined by the Organic Law of Georgia on the National Bank, as well as by the Law on Commercial Bank Activities. According to the amendments, in the event of existence of corresponding grounds, LEPL Competition Agency will be able to study the issues in these fields.
- ▶ According to the Law, in the event of reviewing the issues of observing the Competition Law in the field of regulated field of economy by the Agency, involvement of a regulator in the study of the case is mandatory. As for the study of the same issue by the regulator, involvement of the Agency in the process is also mandatory.
- ▶ The Law became effective gradually and will enter in full force from 1 June 2021.

Source and date of publication: the Legislative Herald of Georgia; 21/09/2020.

Law of Georgia on the Investment Funds Is in Force

- ▶ On 22 July 2020, the Law of Georgia on the Investment Funds was published on the official website of the Legislative Herald of Georgia.
- ▶ The Law is aimed at the development of the market of investment funds in Georgia, ensuring free competition on this market and protecting interests of investors.
- ▶ The Law applies to the following:
 - ✓ Investment fund established in Georgia as well as the companies managing its assets.
 - ✓ Foreign investment fund offering units in Georgia, as well as the companies managing its assets.
 - ✓ Asset management company established in Georgia, notwithstanding the fact if the investment fund managed by it is established in Georgia or not.
 - ✓ Other physical persons and legal entities participating in the activities related to the investment, management, maintenance, administration and recording and registration of the assets of the investment funds.
- ▶ The Law became effective gradually and entered in full force after 90 days from its publishing.

Source and date of publication: the website of the Parliament of Georgia; 22/07/2020.

The Law of Georgia on Rehabilitation and Collective Satisfaction of Creditors Is in Force

- ▶ On 25 September 2020, the Law of Georgia on Rehabilitation and Collective Satisfaction of Creditors was published on the website of the Legislative Herald of Georgia.
- ▶ The Law is aimed at collective satisfaction of creditors through achieving rehabilitation, and in the event of impossibility to achieve rehabilitation - by distribution of the amounts received through realization of the insolvency mass.
- ▶ The Law regulates insolvency issue of the following subjects:
 - ✓ business entity established under the Law on Entrepreneurs, except individual entrepreneurs.

- ✓ non-entrepreneurial (non-commercial) legal entity under the Civil Code of Georgia, nonregistered union, joint venture (partnership);
 - ✓ legal entity established in compliance with the law of the foreign country, and other formation, carrying out economic activity, center of main interest of which is located in Georgia.
- ▶ The Law became effective gradually and will enter in full force from 1 April 2021.

Source and date of publication: the Legislative Herald of Georgia; 25/09/2020.

Draft Law of Georgia on Entrepreneurs

- ▶ On 13 August 2020, the Draft Law of Georgia on Entrepreneurs was published on the website of the Legislative Herald of Georgia.
- ▶ One of the objectives of the Draft Law is performance of the requirements of Association Agreement signed by and between European Union and Georgia. Therefore, imperative and dispositional norms of corresponding regulations of the European Union prescribed for in the Association Agreement and its Appendices are presented in the Draft Law.
- ▶ The Draft Law determines that service agreement shall be signed by and between the limited liability company/joint stock company/cooperative and the manager. The regulations of labor law do not apply to the referred agreement.
- ▶ According to the Draft Law, not only business entities, but individual entrepreneurs may also have branches.
- ▶ The Draft Law allows the opportunity for registration of the branch in Georgia of not only the entrepreneurial entity registered abroad, but also the branch of individual entrepreneur of foreign country.
- ▶ The Draft Law determined the minimal information, applied to the business letter and website of the entity (if any).
- ▶ Along with other changes, the Draft law separates types of capital. In particular, "placed capital" is the amount agreed by the founding partners and stipulated in the founding agreement. Except joint-stock company, existence of the placed capital is not mandatory for the business entities of other form.
- ▶ In addition to the above, the Draft Law offers new regulations of other respective issues.
- ▶ Upon adoption of the Draft Law, the Law of Georgia on Entrepreneurs will be considered invalidated.

Source and date of publication: the Legislative Herald of Georgia; 13/08/2020.

The Rule of Activities of the Investment Board Approved

- ▶ On 28 December 2020, the Order No. 236/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The rule approved with the Order determines the rule and procedures of the activities of the Investment Board of LEPL Pension Agency.
- ▶ The main objectives of the Investment Board are:
 - ✓ Development/reviewing of the document of the investment policy, and periodical review of the strategy of asset placement.

- ✓ Monitoring and evaluation of the investment activities of the Agency.
- ✓ Evaluation of compliance of the investment activities of the Agency to the document of the investment policy.
- ✓ Selecting specialized depository.
- ✓ Selecting the assets management company.
- ✓ Selecting, appointing and determining the remuneration of the chief investment officer.
- ✓ Determining annual budget of investment activity of the Agency and its submission to the directorate of the Agency.

- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 28/12/2020.

The Rule of Recognition of Sophisticated Investor Approved

- ▶ On 17 December 2020, the Order No. 223/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The rule approved with the Order determines the list of the persons considered to be sophisticated investors. For example, such persons are considered to be the persons acting on behalf or in favor of the pension scheme.
- ▶ The rule also establishes the terms of recognition of a person as a sophisticated investor.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 17/12/2020.

The Rule of Developing the Plan of Resolution of Commercial Bank Approved

- ▶ On 30 December 2020, the Order No. 242/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The rule of developing the plan of resolution of commercial bank was approved with the Order.
- ▶ The resolution plan is developed by the National Bank for all commercial banks and branch of foreign bank to which it is purposeful to introduce resolution regime instead of liquidation, if statutory grounds exists.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 30/12/2020.

The Rule of Issuing New Shares for Recapitalization of Commercial Bank under the Resolution Regime Approved

- ▶ On 30 December 2020, the Order No. 239/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The rule determines the terms and procedures of issuing new shares while using resolution instruments foreseen with the Law of Georgia on Commercial Bank Activities.

- ▶ Issuance of shares under the resolution regime is not subject to the rights for summoning general meeting of shareholders, taking decision by the shareholders, preemptive and other corresponding rights determined with the Law of Georgia on Entrepreneurs and charter of the bank.
- ▶ The Order became effective from 1 January 2021.

Source and date of publication: the Legislative Herald of Georgia; 30/12/2020.

The Rule of Appointing and Activities of Special Manager Approved

- ▶ On 30 December 2020, the Order No. 243/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The rule approved with the Order determines the rule and procedure of appointing and dismissing, as well as authority and reportability of special manager of commercial bank or/and the branch of foreign bank under the resolution regime.
- ▶ Only the National Bank is authorized to adopt the decision on appointing and dismissing a special manager at the bank.
- ▶ A special manager reports only to the National Bank and its activities are supervised by the National Bank.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 30/12/2020.

The Methodology of Calculating Regular Risk-Based Insurance Premium Approved

- ▶ On 31 December 2020, the Order No. 13/n of the Head of LEPL Deposit Insurance Agency of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The methodology of calculating risk-based regular insurance premium was approved by the Order, developed in line with the Law of Georgia on the Deposits Insurance System.
- ▶ Along with other aspects, Law of Georgia on Deposit Insurance System is aimed at compensation of the insured deposits of physical persons upon occurrence of insurance event prescribed by Law at the commercial bank.
- ▶ Individual amount of regular insurance premium for each commercial bank is calculated in line with the methodology.
- ▶ The Order became effective upon its publication.

Source and date of publication: the Legislative Herald of Georgia; 31/12/2020.

The Rule of Compensation of Leave for Pregnancy, Childbirth and Childcare, as well as Adoption of a Newborn Approved

- ▶ On 29 December 2020, the Order No. 01-133/n of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ New rule of compensation of leave for pregnancy, childbirth and childcare, as well as adoption of a newborn was approved, and the Order No. 231/n of the Minister was declared invalidated with the Order.
- ▶ Along with other changes, the terms for using leave due to childcare and issuing cash allowance to the father for the period of paid leave were determined with the new Order.
- ▶ The applications submitted for receipt of allowances for the leave for pregnancy, childbirth and childcare, as well as adoption of newborn before validation of the Order are subject to compensation with the rule effective before 1 January 2021.
- ▶ Allowance issued/accrued before 1 January 2021 is not subject to the refunding/claiming and recalculation.
- ▶ The Order became effective from 1 January 2021.

Source and date of publication: the Legislative Herald of Georgia; 31/12/2020.

Decision No. 1/4/1380 of the First Board of the Constitutional Court of Georgia Published

- ▶ On 18 December 2020, the Decision No. 1/4/1380 of the First Board of the Constitutional Court of Georgia was published on the website of the Constitutional Court of Georgia.
- ▶ The Court recognized unconstitutional the content of the norm of the Civil Code, according to which the vehicle or/and technical additional means of the agricultural vehicle, as well as railway transport means determined with the corresponding article of the Law of Georgia on Road Traffic shall not be used as the means for guaranteeing the claim of the loan agreement signed with the physical person. The referred restriction also applies to the individual entrepreneurs.
- ▶ According to the explanation of the Constitutional Court, during consideration of the issue, no argument was submitted confirming the fact that the loss avoided with the restriction established with unconstitutional norm is of special severity.
- ▶ Unconstitutional norm was recognized invalidated from the moment of publishing the decision on the website of the Constitutional Court.

Source and date of publication: the website of the Constitutional Court of Georgia; 18/12/2020.

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