



Georgian Legal News Refer to the Law

Amendments to the Law of Georgia on Activities of Commercial Banks

Pursuant to a law passed by the Parliament of Georgia on 23 December 2017, a number of amendments to the Law on Activities of Commercial Banks came into force on 11 January 2018.

The list of documents to be submitted to the National Bank by a banking licence-seeker has been expanded.

The law further provides for a set of criteria, based on which the National Bank approves (or rejects) purchase of a significant stake in a commercial bank. The law authorises the National Bank to request additional information before making the final decision (including confidential).

Changes are made in respect of the restrictions on the ownership rights as well as assets, manner of possession and group structure of a commercial bank. In particular, within the framework of a restriction policy pertaining to non-core activities of commercial banks, the law proscribes direct or indirect ownership of shares in any amount by these banks in the authorised capital of an enterprise which is not a financial institution; activities not related to banking or the bank's social projects are also prohibited.



Further, within the ambit of the restriction, a commercial bank will be authorised to directly or indirectly own no more than 20% of shares in the nominal capital of an enterprise, provided that the share that the bank owns in the enterprise does not exceed 15% of the share capital of such bank. Moreover, subject to a written permission issued by the National Bank, a commercial bank will be authorised to establish and/or buy an enterprise where its share participation exceeds 20%.



Law on “Customs Measures concerning Intellectual Property”

On 13 December 2017, the Parliament of Georgia adopted a law “Customs Measures concerning Intellectual Property”, which will enter into force on 7 February 2018.

The law has been drafted in line with Regulation (EU) No. 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights. The law provides for the protection of rights of persons who hold rights over all objects of intellectual property that are protected in Georgia through the use of special customs measures against the movement of goods that have been produced in breach of the foregoing rights and/or movement of counterfeit products through import, storage, free zone, re-export, and export operations in Georgia.

The law does not apply to the following type of goods:

- a) Non-commercial goods in small quantities which are moved in the luggage and/or hand luggage of a travelling person and/or are intended for personal use;
- b) Original goods, amongst others, even in cases when the movement of goods on the territory of Georgia occurs without the consent of the rights’ holder;
- c) Goods that have been produced by a person duly authorised by the rights’ holder in excess of the quantity approved by the rights’ holder.

New order of the Head of Deposit Insurance Agency

The order of the Head of Deposit Insurance Agency on Approving the Template of the Report on Administrative Offence to be prepared by the Deposit Insurance Agency, Designating the Persons Authorised for the Preparation thereof and Rules for Imposing Monetary Sanctions and Payment thereof has become effective on 29 December 2017.

More specifically, commercial banks will be penalised for the failure to inform their customers of the deposit insurance system, provide requested information on deposits, make initial/regular/special insurance contributions in accordance with the Law of Georgia 'On Deposit Insurance System'. A procedure is introduced to regulate the enforcement and appeal of such sanctions.

Case Law

In its ruling of 11 January 2018 on case N3b/2727-17, the Administrative Chamber of Tbilisi Court of Appeals examined the issue of justifiability of the use of security measures pursuant to and in relations deriving from tax law. The Court held that “[i]n the present case, the disputed matter pertains to finding that persons have alter ego personality, which is linked to tax collection.”

The Court ruled that the property on which the person requests that a lien be placed is under the ownership of the Respondent who may, at any stage of the court proceedings, dispose of such property, including, by selling or encumbering it, consequently rendering the property defective in terms of rights. “In such event, unless the security measures are used, there will be a risk of the property being transferred under the ownership of another person which, should the claim in the present case be satisfied, will preclude the enforcement of the court decision.” In respect to probability and foreseeability of the disposal of the property, the Court held that the foregoing “stems directly from the content of the case; in particular, the claim pertains to finding that a person has an alter ego personality, which is linked to collection of taxes. In such case, for the Respondent, one of the means of protecting itself from enforcement of claims is indeed the disposal of the property that is under its ownership. Namely, the owner of the property, realising that if the claim in the present case is satisfied, it will put them in an unfavourable position, will most probably formally sell the property to another person (transfer the ownership), which – in case the claim is satisfied – will render the enforcement of the court decision unfeasible.”

If you have any questions regarding the information provided in this newsletter, please contact one of the Tax & Legal professionals at our Deloitte office in Georgia:

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