

PwC Georgia Tax & Law Brief

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Draft Amendments to the Tax Code of Georgia

The draft amendment to the Tax Code of Georgia has been published on the Legislative Herald of Georgia, on 17th November 2017, according to which:

Refund of VAT amount to the VAT payer of European Union.

- The VAT payer of European Union is allowed to request refund of VAT paid on the purchases of goods (except, immovable property) and/or services or during importation of goods in Georgia in case of satisfying certain prescribed conditions.
- For VAT refund purposes, the person is liable to appoint authorized representative. Within the refunding process, the latter will have a taxpayer's obligations established under the tax code.
- The rules of VAT refund, as well as criterion that should be met by an authorized representative would be defined by the order of Minister of Finance.

Profit distribution

- Distribution of profit earned before 1st January 2017 by a permanent establishment of non-resident enterprise shall not be subject to profit tax.

Exemption from VAT

- Under the current tax legislation, supply and/or importation of books specified in the codes 4901 of National Commodity Nomenclature of Foreign Economic Activities, as well as services in relation of the sales and printing of such goods is exempt from VAT without the right to credit. According to the draft amendment such operation shall be exempt from VAT with the right to credit.

Credit of profit tax

- Under the current tax legislation, capital contribution into or the payment made for the purchase of shares of a non-resident or of a person exempt from profit tax is taxable with corporate income tax. According to the draft amendment, when performing aforementioned taxable operation and before the distribution of dividends earned during the period from 1 January 2008 till 1 January 2017, a person will be entitled to credit an accrued and paid profit tax related to the period 1 January 2008 – 1 January 2017. The crediting should be

executed according to the mechanism established by article 309, part 92, of Georgian tax code.

- In the event of executing aforementioned right:
 - The amount of tax to be credited upon the distribution of dividends of the period 2008-2017 should be reduced by the credit amount granted on the aforementioned operation.
 - After the transfer of stock/share, the person is entitled to credit already paid profit tax in the tax year when the compensation on such transfer is received.

- A new article #26² is introducing in the tax code - Organizing of the market, which defines the terms of granting the status of market organizer and the organizer's liabilities. Specifically:
 - Market organizer would be liable to present to the tax authority the information about the persons conducting economic activities on the territory of market. The information should be presented according to the procedures established by the Minister of Finance. Also the organizer would also be liable to ensure maintaining of cash machines on the territory of shopping center and/or trading place gradually within the established timelines. Herewith, the article also defines the term "Market" and "Organizing the Market (trade)". Besides, the fines were defined for non-fulfilment of requirements established by Georgian tax code for person under the status of "Market organizer"

Organizing of the market

Georgian residency

- Except for the cases prescribed by the law, additionally the Georgian residency may also be granted an individual who is a foreign country citizen for other cases and under the rules defined by the Minister of Finance.

Exemption from Personal income tax

- The following exemptions would be prolonged until 1 January 2023:
 - taxable income earned from the primary supply of agricultural products produced in Georgia by an individual engaged in agricultural production if the gross income earned by an individual from such supply during the calendar year does not exceed GEL 200 000;
 - salary or wages paid by an individual engaged in agricultural production within the scope of that activity, provided that the employer's gross

income received from such activity does not exceed GEL 200 000;

Exemption from Corporate income tax

- The following exemptions would be prolonged until 1 January 2023:

The distribution of profit earned by an agricultural cooperative from a primary supply of agricultural products made in Georgia before their industrial processing (changing their commodity code) and expenses/payments incurred within the same activity.

Regulatory rules for excise tax exemption

- Alcoholic drinks (liquid) used for the production of pharmaceutical products would be exempted from excise tax without the right to credit
- Alcoholic drinks (liquid), which is used for the production of drinks, whose level of alcohol does not exceed 1.2% should be exempted from excise tax without the right to credit.

Exemption from import tax

- The period of exemption from import tax imposed on import of raw tobacco is prolonged till 1 January 2023

Corporate Income Taxation in Oil and Gas operations and operations under host government agreements

- According to the draft law the difference between annual gross income and deductible expenses is subject to corporate income tax for the following profits:
 - Profit gained as a result of oil & gas operations, under the “existing agreements” defined by the law of Georgia on “Oil and Gas”;
 - Profit earned by the participants of the main export pipeline project, which is regulated by international treaty of oil transportation Baku-Tbilisi-Ceyhan main export pipeline;
 - Profit earned by project participant of international agreements regarding transportation, sale and transit of natural gas by south Caucasus pipeline system within the territories of Azerbaijan republic and Georgia;

Securities issued by a resident legal entity through public offering in Georgia and vested on the organized market recognized by the national Bank of Georgia

- According to the draft law the term “floating securities” will be abolished, therefore the norms that include this concept are also annulled.
- Besides, the following transactions related to securities issued by a resident legal entity through public offering in Georgia and vested on the organized market recognized by the national Bank of Georgia will be exempt from personal income tax:
 - Income received from supplying such debt securities.
 - Interest income received before 1 January 2023 from such debt securities.
 - Income received by supplying such participation securities.

The above exemption relates to income of non-resident entities as well.

- Payment to the shareholders in the form of granting the participation securities issued under the above manner will be subject to profit tax.

Source: Legislative Herald of Georgia, the draft amendment to the Tax Code of Georgia, 17 November 2017

Draft Law on Border Measures Related to Intellectual Property

The Parliament of Georgia has passed on the 2nd hearing the draft law that will replace the current Law on Border Measures Related to Intellectual Property. The draft law implements number of new regulations, including:

The right protection scope

- The scope of intellectual property rights protection is expanded and it also provides for the possibility to use the border measures in case of the movement of goods in accordance with import, warehouses, free zone, re-export and export commodity operations in the customs territory of Georgia.

Suspension of goods

- If the Georgian Revenue Service (GRS) will have the grounds to assume that the goods moved on the customs territory of Georgia are produced in violation of the intellectual property rights that are (i) protected in Georgia but (ii) are not registered in the Intellectual Property Object Registry of Revenue Service (the Registry), GRS may suspend such good and/or the procedures provided by the Georgian tax legislation for 3 working days. Meantime, the right holder should be informed about the suspended goods in order to register his/her right in the Registry.

Exemptions

The draft law also provides for the exemptions where the law does not apply, including:

- In case of a small number of non-commercial goods consisting of a passenger's baggage or handbag and / or designed for personal use;
- In case of the original goods, even if the movement on the customs territory is carried out without the consent of the right owner;

Source: The Parliament of Georgia, 29 November 2017

Draft Amendments to the Law of Georgia on Traffic Rules

The Parliament of Georgia has passed on the 1st hearing the draft amendments to the Law on Traffic Rules, according to which:

Periodic technical inspection

- The term “roadworthiness test” is replaced with the term “periodic technical inspection”. However, the term includes the same procedure and refers to the combination of technical operations and procedures, which determine the technical conditions of the main elements of traffic safety with a predetermined periodicity, and the content of harmful substances concentrated in car exhaust emissions in the ambient air;

Technical requirements

- The following issues will be defined by the normative act of the Government of Georgia:
 - Requirements for the technical qualifications of buildings, equipment and personnel of the periodic technical inspection centers;
 - Requirements for the technical inspection procedures, their periodicity and fees.
- The stickers confirming the roadworthiness test passing will be abolished.

Source: The Parliament of Georgia, 29 November 2017

Decisions of the Constitutional Court of Georgia

The security to compensate the defendant's possible damages in case of the provisional measures

- According to the Civil Procedures Code of Georgia, the claimant may file an application with the court for provisional measures if there is a risk that irreparable outcomes will be faced for the claimant's right. If the court assumes that the enforcement of provisional measures will cause damage to the defendant, the court may enforce the provisional measures and at the same time, request the person who applied to the court for provisional measures to provide security to compensate possible damages that the other party may incur.
- The dispute concerned constitutionality of Article 199 (2) of the Civil Procedure Code of Georgia, according to which a person who applied to the court for provisional measures is obligated to provide security for possible damages to the defendant within 7 days. According to the claimant:
 - The provided term is not reasonable enough, since in most cases the security for reimbursement of losses implies mobilization of large amount of money for which more than 7 days are required;

- The disputed provision does not provides for the possibility to appeal the court ruling on the security to compensate possible damages;
- The Constitutional Court of Georgia satisfied the constitutional claim partially. According to the Court, the law should provide possibility for each case to determine the reasonable timeframe for the defendant to provide security to compensate possible damages. With respect to appellation of the court ruling on such security, the court held, that the issues related to the appellation are not subject to the disputed provision at all.

Source: The Constitutional Court of Georgia, case №2/6/746, 1 December 2017

Let's talk

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

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