

Tax and Legal Newsletter

Changes in Tax legislation

In October 2016, there were not made any important changes in Georgian Tax Legislation.

Other legal Updates

Order on professional liability insurance for accounting firms and auditors

On October 17, 2016 Head of Department of Supervision of Accounting, Financial Statements and Audit issued Order #12. The order sets new standards for professional liability insurance for accounting firms and auditors (individuals), particularly:

- After issuing insurance compensation the insurer has the right of recourse against policyholder if the compensated damage is caused by intentional act of accounting firm/auditor;
- Accounting firms/auditors are required to have insurance of professional liability during the entire period of exercising their professional activity. Term of insurance policy shall be at least 1 year. Retroactive period for the insurance set by insurance policy shall not be less than 24 calendar months prior to the insurance policy entered into force;

- In case of cancellation of registration of accounting firm/auditor in the State Register of Accounting Firms the insurer shall compensate damages within 12 months from the cancellation of registration provided that the damages are inflicted during validity period of the insurance policy;
- Limit for each ensured event shall be at least 10% from the total insurance amount;
- Minimum franchise for each ensured event shall not exceed 5% of the amount to be compensated but at least 1000 Lari for individuals and 2000 Lari for legal entities.

Important Court Cases

On October 05th, 2016 Court of Appeal made an interesting decision regarding using of measures to secure a claim, namely seizure of bank account of legal entity.

The plaintiff is a fired lawyer who claims against his former employer and requires executing the measures to secure a claim and seize bank account of the defendant in the amount of 15413 Lari.

Court of Appeal highlighted the following issues:

- For applying provisional measures shall be observed fair balance between plaintiff's rights (to ensure realization of the rights confirmed by the court) and defendant's interests (provisional measures shall not unjustifiably encroach defendant's interests).
- Limitation of the rights by provisional measures shall be adequate to the claim amount. Unjustified limitation of defendant's rights and creating unequal opportunities for the parties by applying of provisional measures is unacceptable.
- The most important is to keep balance between protected rights of plaintiff and limited rights of defendant.
- Seizing bank accounts of legal entity may result interruption of entrepreneurial activities and circumstances when obligor cannot perform its obligations willingly or by using mechanisms provided by the Law Enforcement Proceedings.
- For equal protection of plaintiff's and defendant's rights the plaintiff shall take measures to search whole property of defendant. Seizing of bank accounts of the legal entity shall be applied provided that defendant has no any other property.

- In this case, on stage of submission of complaint the complainant should have proved that defendant had other movable/immovable property for using as provisional measure and that seizure of bank account is a violation of defendant's rights.
- Otherwise, leaving the plaintiff without provisional measure based on the argument, that seizing bank account is not reasonable, lacks the legal base.
- Accordingly, the court satisfied the complaint regarding seizing 15413 Lari on bank account of defendant but left opportunity to the party to appeal the decision.

Full text of the decision on case №28/3081-16 is available on web-page of Court of Appeal.



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