

Tax and Legal Newsletter

Tax legislation Updates

No significant amendments have been made in Georgian Tax Legislation in October, 2018.

Other Legal Updates

Pension Reform

From January 1st, 2019, mandatory accumulative pension system will be effective. The employees who are employed in Georgia, from January next year will have the obligation to transfer part of their paid salaries to the pension fund. Individuals who have completed 40 years before enacting the Law on an Accumulative Pension Fund have the right to refuse participation in the scheme.

Employee's pension contributions shall be financed as follows:

- Employer transfers to the employee's pension account 2% of an employee's monthly gross wage.
- Employee transfers to its pension account 2% of its monthly gross wage (employer conducts the transfer on behalf of the employee).
- Government transfers to the employee's pension account 2% of an employee's monthly gross wage. It is noteworthy that if the annual gross salary of the employee is between 24 000 and 60 000 GEL, then the government pays 1%, and the government does not make a pension

deposit if the employee's salary yearly exceeds 60,000 GEL.

Accordingly, monthly contribution to the pension account of the employee approximately amounts to 6% of the employee's monthly gross wage.

Self-employers have the right to participate in the pension accumulation scheme voluntarily. In this case, the self-employed shall transfer 4% of their own income to their pension account.

After reaching the pension age, the participant will be entitled to receive the corresponding value of the pension assets registered on its individual pension account.

The National Bank of Georgia and LEPL Pension Agency are obliged to adopt relevant normative acts before December 1st, 2018, envisaged by the Law on Accumulative Pension System.

Loan Reform – Draft Regulation on Issuing Loans to Individuals

Draft Regulation on Issuing Loans to Individuals which aims ensuring sustainable and stable functioning of the Georgian financial system, encouraging sound crediting and protection of borrowers from disproportionate financial risks, has not entered into legal force on November 01st, 2018 as scheduled. According to the statement of National Bank of Georgia the Regulation will take effect on November 15, 2018, considering certain amendments suggested by financial sector of Georgia.

Resolution of the Government of Georgia №476 on Approval of Technical Regulations on Construction Products

On November 15, 2018 the draft Resolution of the Government of Georgia №476 on Approval of Technical Regulations on Construction Products will enter into legal force.

The Resolution determines technical regulations, which establishes the main features of the construction products, to which must be conformed to any construction materials imported and manufactured in Georgia.

The LEPL Technical and Construction Supervision Agency has been defined as a supervisory body for the products provided at the construction market.

According to the resolution, if the construction product is in compliance with the Georgian standard or satisfies the requirements of the European technical assessment, the manufacturer is obliged to make a product declaration before the product is placed on the market.

The Resolution determines liabilities of the construction product manufacturer, authorized representative, importer and distributor.

Bodies, accredited according to Georgian legislation or by the Organization for Economic Co-operation and Development (OECD) in the EU states will be authorized to assess and verify compliance of properties of the construction product.

The basic requirements for building facilities are:

- Strength and sustainability;
- Safety protection during fire;

- Hygiene, Health and Environment;
- Safety and availability;
- Noise protection;
- Maintain energy saving and heat;
- Effective use of natural resources.

Important Court Cases

The Georgian Court of Appeal made an interesting decision on grounds of termination of labor relations, distribution of the burden of proof and admissibility of evidence.

The plaintiff requested annulment of dismissal order, reinstatement and payment of compensation for lost wages.

The court explained that the lawfulness of the dismissal of the employee could only be investigated based on the grounds for the dismissal of the employee indicated in the order of the administration on the termination of the employment agreement.

For the protection of labor rights, the employees must exercise their labour rights fully. In this regard, special importance is given to the protection of the principle of “*ultima ratio*”. With regard to “*ultima ratio*” principle dismissal becomes the employer’s final solution. This presumes that alternatives to dismissal have been envisaged. It stipulates that termination of the employment contract or industrial action must represent the last possible means when all other options are exhausted.

The Court pointed out that in the present case the defendant had not confirmed the plaintiff's failure to fulfil the duties imposed on it and consequently



concluded that there was no factual basis for termination of labour relations with it. Burden of proof is incumbent on the employer, which is in line with the reasoning behind the arrangements for justification or grounds for the employer's decision to dismiss.

This decision is available on the web-page of Court of Appeals, with the case number - 28/4372-16.



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