

## Tax and Legal Newsletter

### Tax legislation Updates

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

### Other Legal Updates

#### Civil Code of Georgia

The draft law on amendments to the Civil Code of Georgia has been presented to the Parliament of Georgia.

According to the amendment, in case of sale by instalment, if the price amounts to 200 000 GEL or less, the seller shall not receive the price of the item in any form of foreign currency (According to the current wording of the Code, the above limit is subject to a cost of up to GEL 100 000). Furthermore, the limit set by the Civil Code will be increased from GEL 100 000 to GEL 200,000 on settlements in national currency such as leasing, loan and bank credit. Consequently, if the value of the above contracts is less than GEL 200 000, receiving of payment, grant of loan and credit shall be executed only in the national currency.

It is noteworthy that the requirements of this amendment shall not apply to the legal relations arising before the enactment of this amendment.

#### Draft Law of Georgia on Labor Safety

Various legal acts in Georgia include amendments about labour protection, which requires adoption of a new law on labour safety, which is also being considered in the Parliament of Georgian.

The essence of the draft law is to define the uniform standard for labour safety in the labour market for all enterprises operating in the economic activity of the labour market. Determine the necessary legal framework for the establishment and operation of effective and efficient enforcement and inspection mechanism. Define and specify the rights and obligations of any person and labour inspectorate directly or indirectly related to the protection of the employer, employee, including security, liabilities and scope of responsibilities that will enhance the cooperation of the labour relations, increase productivity and awareness of the subjects, guarantee of creating a healthy and safe environment on working places.

#### Registration of harmful, and hazardous works, containing increased risk

By resolution #381 dated July 27, 2018, Government of Georgia has defined list of harmful, and hazardous works (number of such activities exceeds 300), containing increased risk which requires registration at the Entrepreneurial Registry. The registration deadline has been extended till 30 October 2018. In case of violation of the term of registration, the persons/entities carrying out such activities will be fined, which does not relieve them from compulsory registration.

The following activities are subject to registration: various types of construction; Metal production; Mining industry and quarry processing; Production of computers, electronic and optical products; Production of transport equipment; Supply of electricity, gas, steam and condensed air; Production of chemicals; Production of pharmaceutical products; Production of rubber, plastic and other non-metallic materials; Timber processing manufacturing; Clothing and leather

production; Production of food products; Works related to land, water and air transport; Water supply, sewerage, waste management and pollution, etc.

A complete list of activities subject to registration is given in the above-mentioned resolution of Government of Georgia.

## Important Court Cases

Supreme Court of Georgia has made an important decision regarding the list documentation needed to privatize the residential house.

The plaintiff requested to privatize the residential house where he has been registered, living and paying communal payments from 1955 within 60 years.

The Plaintiff firstly applied to the relevant head of district, then appealed refusal in Tbilisi City Hall, first and second instances of Georgian courts. However, none of his complaints were satisfied with the fact that he had no documentation to verify the ownership of the residential house, such as executive committee's decision or other document.

According to the Tbilisi Court of Appeals, in this case, in the case materials there are documents attesting the claimant's use of the apartment, but lacks documentation certifying the ownership. Consequently, the complaint was not satisfied and the decision of the first instance remained in force.

The Plaintiff appealed the decision of Tbilisi Court of Appeals in the Court of Cassation where his complaint was satisfied based on the following circumstances:

- The right to ownership of the disputed immovable property, as well as the right of

lease, rent, construction, servitude, usufruct or mortgage is not registered;

- The Court of Cassation emphasized that in assessing the legal relationship, there is significant to determine whether the applicant is a lawful beneficiary of the occupied area and the entitled subject to the ownership of the disputed residential house free of charge. Accordingly the court should have determined whether the fact of his registration in the apartment is a document confirming ownership or not;
- It is not disputed that the Plaintiff has been registered in the disputed property since 1955;
- The Court of Cassation explained that the "Soviet registration institution" was unlike today's registration in a residential apartment regulated by the legislation, but meant the existence of legal rights on the property;

Accordingly, the Court of Cassation satisfied the Plaintiff's complaint and ordered the relevant district administration to issue an individual administrative-legal act on the transfer of the property to the Plaintiff free of charge.



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