

Tax Legislation Updates

No significant amendments have been made in Georgian Tax Legislation in April, 2019.

Other Legal Updates

Deliberation of the Draft Law on Mediation Begins

Mediation, as an alternative dispute resolution mechanism is becoming the subject to special legislative regulation. The Parliament of Georgia launched the procedures of adoption of an independent law on Mediation, which was elaborated in 2017, by the Ministry of Justice of Georgia.

The aim of adoption of the Law on Mediation is to provide more efficient and timely solutions for both commercial and non-commercial disputes and to free up the general courts from the disputes, where it is expected that it will be finished with settlement.

The draft law on Mediation envisages two types of mediation: private and court mediation. The private mediation can be initiated by the parties of the dispute, upon their agreement. Despite the absence of a special indication, after logical analysis of the draft law, it can be deducted that the agreement about referring the dispute to the mediation can be concluded separately, as well as it may be a part of the main contract between the parties. As for the court mediation, the draft law provides that the basis for remitting the civil dispute to the mediation should be the judge's decision. Although the draft law does not provide, which authority, other than the court is capable of having the power to refer the case to the court mediation, the legislative initiative contains an ambiguous provision, which provides that the court mediation can be launched, after referring it to the mediation by another authorized body.

Considering that one of the forms of mediation should be court mediation, the existing regulations in the Civil Procedural Code in regard with court mediation remain in force. However, a number of legislative amendments are envisaged by the bill on

the Civil Procedural Code. To the existing list of cases, which is subject to the court mediation, it will be supplemented with several categories of cases, that may be transferred to the court mediation by the judge's decision (despite the consent of the parties). Such cases should comprise with: Non-pecuniary disputes, pecuniary disputes, where the value of the dispute does not exceed 20,000 GEL, disputes arising from the loan agreements (including the electronic loan agreements), concluded by banking institutions, micro financial organizations or non-bank credit institutions, if the value of the dispute does not exceed 10,000 GEL, labour disputes (except for collective labour disputes) and disputes derived from the co-ownership rights. Although the consent of the parties is not mandatory for the initiation of the court mediation process, it does not violates the free will of the parties and does not limit them to necessarily complete the dispute through mediation. At any time of the mediation, they are entitled to request the resolution of the disputes through court proceedings.

As regards the list of cases, subjected to the private mediation, the restrictions on the disputes by the case categories, are not envisaged by the draft law. However, as noted by the Committee on Legal Issues of the Parliament of Georgia, as it is in regard with court mediation, where the Civil Procedural Code provides for certain categories of cases, which are not the subject of court mediation, the draft law on Mediation shall also provide the same regulation for private mediation. Namely, by the remark of the Committee, the private mediation should not be available for the cases, concerning the child adoption, the abolition of the child adoption, restriction from parental rights, deprivation of parental rights, as well as regarding violence against women and / or domestic violence.

According to the draft law on Mediation, it will be established a self-regulatory body of mediators - Association of Mediators of Georgia. The bill also envisages the mandatory requirements for mediator, prescribes the mediation procedures, sets up the general conditions for the protection of ethics and defines the disciplinary liabilities of mediators.

It is important that in order to fulfill effectively the conditions envisaged by the draft law on Mediation,

the amendments are also planned in other legislative acts, including the Civil Procedural Code and the Law of Georgia on Enforcement Proceedings. The amendments provide the mechanisms for ensuring the participants of the mediation process, as well as the means of enforcement of the mediation settlement.

The draft law on Mediation is to become effective after January 1, 2020.

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