

Tax Legislation Updates

In order to comply with Council Directive 2006/112 / EC of 28 November 2006 on value added tax matters, appropriate changes to the Tax Code of Georgia are planned to be implemented. The anticipated amendments apply to all VAT regulatory provisions of the Tax Code of Georgia, as a result of which the relevant legislative norms, in particular, Section VII of the Tax Code of Georgia, is fully formulated in a new version.

The draft law regulates number of VAT issues that are planned to enact from January 1, 2020. As the change package is quite extensive, a detailed analysis of it will be presented in the August newsletter.

Other Legal Updates

Amendments to the Civil Code and the Civil Procedural Code of Georgia

The Parliament of Georgia has adopted the Code on the Rights of the Child through second reading and other legislative acts associated with it. Due to the need to safeguard the best interests of the child, among changes to the Civil Code of Georgia it is important amendments, associated with imposition of judicial control over the alienation of a child's property rights, as well as determination the time for commencement of the period of limitation with attainment of majority by the minor. In particular, the paragraph 2 is planned to be added to the Article 130 of the Civil Code, according to which "if the claim arises before attainment of majority and derives from sexual, economic, domestic or other forms of violence against him, the limitation period shall commence on the date on which the person has reached the age of majority." As for the alienation of the minor's property rights over immovable and movable property (valued at more than GEL 1000), it is established that the parent or legal representative may dispose the immovable or movable property of the child on the basis of court

approval. At the same time, the main criterion for the court's consent is the protection of the best interests of the child by such disposition.

Due to the introduction of the Court's role in the disposition of child property rights, the relevant amendments are also introduced in the Civil Procedural Code. The amendments provide that the parties involved in the process - judges, lawyers, social workers, or other persons invited to the process, if their presence is needed for the best interests of minors, should be specialized in juvenile affairs and other related matters.

Among the amendments to the Civil Procedural Code it is significant the draft law proposal, submitted by the High Council of Justice, which proposes determination of jurisdiction of appellate courts among the arbitration cases. According to the legislative proposal, arbitration cases subordinated to the Court of Appeal, will not be reviewed by the location the arbitration proceedings took place (as far as the most arbitrations are located in Tbilisi). Instead of this, the cases will be deliberated by the place of domicile of the defendant. As the result, it is planned to unload the Tbilisi Court of Appeal and increase the involvement of the Kutaisi Court of Appeal in the process connected with the arbitration cases, which should speed up reviewing the cases.

Amendments to the Law of Georgia on Entrepreneurs

An amendment to the Law of Georgia on Entrepreneurs stipulates that the provisions of the Organic Law of Georgia on Agricultural Land Ownership shall apply to the entrepreneurial activity in addition to the rules established by the Law of Georgia on Entrepreneurs. The restrictions imposed by the Organic Law of Georgia on Agricultural Land Ownership on alienation of the company shares/equities are discussed in our newsletter dated May 2019.

Court Practice

Judgement of the Constitutional Court of Georgia

On 4 July 2019, the Constitutional Court of Georgia delivered an interesting judgement on the constitutionality of the provision of the article 150 of the Code on Administrative Offences of Georgia, which prohibited the temporary placement of a banner, slogan or poster in places not allocated specifically for that purpose, if such an act was committed by an owner or with the owner's permission on their property, or alternatively by a member of the City Council on the facade of his/her working space as a means of spontaneous protest.

According to the complainant's argumentation, the disputed norm excluded the possibility of expression in the form of a spontaneous protest and disproportionately restricted the freedom of expression guaranteed by the Constitution of Georgia.

The Constitutional Court emphasized that the facade of various buildings is a space used as a means of expression, for which time is of the essence, and any delay in protesting against current and topical events may diminish its effectiveness as

much as vitiate the very expression. The Constitutional Court ruled that in a democratic society such an intense restriction of freedom of expression cannot outweigh temporary change of the appearance of various buildings. Accordingly, the meaning of the disputed law that restricted the temporary placement of a banner, slogan or poster by an owner or with the owner's permission on their property as a means of spontaneous protest was found unconstitutional by the Constitutional Court.

In respect of the placement of banners, slogans and posters on the facade of a city council's building, the Constitutional Court noted that the restriction of the freedom of expression relates to a specific object. The municipality has a special interest to ensure the use of public resources as intended and to not allow arbitrary use of their property. Therefore, the interest of protection of the freedom of expression of a city council's member does not outweigh the wider interest of self-governing bodies to protect their property from unjustified exploitation. Consequently, the Constitutional Court found that the said restriction established by the disputed act did not contradict the Constitution of Georgia.

Contact information

bakertilly
7 Bambis Rigi, 0105, Tbilisi.
(+995 32) 2438 999

office@bakertilly.ge
www.bakertilly.ge

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