

Tax Legislation Updates

On 29 May, 2019, the Parliament of Georgia passed the bill on "amendments in Tax Code of Georgia" through the second hearing. These amendments were reviewed in our publication, issued in December, 2018.

According to the amendments, an enterprise that performs the activities determined by the Government of Georgia may be granted status of the international company. Entities, with such status will benefit from tax privileges. In particular, the international company performing activity provided by the resolution of Government of Georgia will be exempted from VAT. International company will not have obligation to tax at source of payment wages of hired persons. A foreign citizen who is a resident of Georgia (at the same time is not a resident of the country of its citizenship) will be exempt from income tax provided that its wages are received from the international company. The international company will be subject to profit tax at a 5% rate and the dividends issued by the international company will be exempt from tax. An international company shall be exempt from property taxes (except land plot tax) if this property is intended or used for the work permitted by the Decree of Government of Georgia.

The draft law specifies that if the person conducts non-monetary payments/transfers provided by Articles 98¹-98⁴ of Tax Code, market price excluding VAT (if this price includes VAT) of goods/services provided will be subject to profit tax.

According to the amendments, the transfer of assets to a legal entity by an individual, in exchange for a 50 percent or more shares, is not considered as supply of assets.

Pursuant to the draft law, from 2019, the microfinance organizations, like banks, will be eligible to deduct the possible loss reserves of loans, as determined by the National Bank.

According to the amendments, subparagraph "e" of article 174 paragraph 3 of the Tax Code is newly

formulated, the conditions for receiving VAT payments through tax invoices are specified. In particular, the VAT deduction shall be adopted no later than by December of appropriate taxable transaction (including by submitting the corrected declaration of the same period). Based on this, the subparagraph "f" of Article 174 paragraph 3, is specified and sub-paragraph f¹ is added.

Other Legal Updates

Draft Law on "Agricultural Land Ownership"

On May 3, 2019, the Organic Law of Georgia on "Agricultural Land Ownership" was passed with the first hearing.

According to the draft law, foreigners, legal entities established by foreigners, where they are majority shareholders, financial institutions, established in accordance with the Georgian legislation or international financial institutions will be granted to acquire the title of ownership on the agricultural land in Georgia, in the following circumstances:

- **The foreigner natural person shall be entitled to receive ownership on agricultural land only on the basis of heritage.** In addition, the absence of appropriate restrictions in the draft law indicates that the foreigner may become a heir on agricultural land in Georgia through intestate or testate probate;
- **A legal entity whose majority shareholder is a foreign citizen or legal entity registered overseas** shall be entitled to acquire property rights on the agricultural land in Georgia, only based on the decision of the government of Georgia and only if it submits the relevant investment plan. In addition, a legal entity in this category can not afford property rights on the agricultural land in Georgia, if the land is located in a 5 km border area or in a special regulation zone defined by the government's decision;
- **International financial institutions, defined by the decree of Georgian government, as well as the financial institutions, defined by the Georgian**

legislation, whose majority shareholder is a foreign citizen or legal entity registered overseas, shall have the right to obtain ownership on the agricultural land in Georgia, through the activities, which is permitted by Georgian legislation for those institutions. Such international financial institutions are: European Bank for Reconstruction and Development (EBRD), Asian Development Bank (ADB), World Bank Group (WBG), European Investment Bank (EIB), Council of Europe Development Bank (CEB), International Monetary Fund (IMF), Nordic Environment Finance Corporation (NEFCO), the Black Sea Trade and Development Bank (BSTDB), the Overseas Private Investment Corporation (OPIC) and the Dutch Development Bank (FMO). The types of financial institutions defined by the legislation of Georgia are specified by the Law of Georgia on Securities Market and their activities relate to financial services. Among them are commercial banks, micro financial organizations, insurance organizations and others.

Liabilities and restrictions, to be imposed on foreign citizens, legal entities whose majority shareholder is a foreign citizen or legal entity registered overseas, international financial institutions and financial institutions, defined by the legislation of Georgia

- **Obligation to alienate**

A) A foreign citizen who inherits agricultural land, will be obliged to use the land for agricultural purposes, or if he/she fails to fulfill this obligation – to alienate it within 3 years (here it should be noted that the draft law does not provide the answer, from which moment should be counted 3 years period (the starting moment for 3 years period should be the day of inheritance, cessation of use of the land or other)). The obligation to alienate the land will not arise, if the land belongs to the category of homestead land. If the land will not be alienated within the established time period, it will be subject to expropriation by the state under the applicable legislation of Georgia;

B) A legal entity of private law registered in Georgia whose majority shareholder is a foreigner and /or overseas registered legal entity, shall be obliged to alienate the

agricultural land within one year period, if the obligations determined by the investment plan are not fulfilled. If the land will not be alienated within established time frame, it will become subject to state expropriation;

C) Financial institutions defined by the legislation of Georgia, whose majority shareholder is a foreigner and/or legal entity registered overseas, shall alienate the agricultural land within 2 years period after the acquisition of property right on it;

D) The foreign citizen or legal entity of private law registered in Georgia (whose majority shareholder is a foreign citizen and/or legal entity registered overseas) whose property right is already registered on the agricultural land, after enactment of the draft law, shall be obliged to use it with agricultural purposes. In case of failure of this obligation during 3 years, they will be penalized by the appropriate legislation of Georgia;

- **Limitations**

A) **An agricultural land shall not be mortgaged** in favor of a foreign citizen, legal entity registered abroad and/or legal entity registered in Georgia (whose majority shareholder is a foreign citizen/legal entity registered abroad);

B) **The cession will be prohibited**, if the foreigner, legal entity registered abroad, and/or legal entity registered in Georgia (whose majority shareholder is a foreign citizen/legal entity registered abroad) shall be entitled to acquire property rights;

Note: The abovementioned restrictions will not apply to international financial institutions and financial institutions defined by the Georgian legislation, as well as foreigners who inherit agricultural land;

C) **restrictions will be imposed on the acquisition of business**, in particular, it will not be allowed to acquire majority shares by the foreigner, legal entity registered abroad or legal entity registered in Georgia, whose majority shareholder is a foreigner or legal entity, registered overseas, **if the company, whose shares are subject to acquisition has ownership on agricultural land.**

The shares of such company can not also be used as means of security, if the failure

to fulfill the obligation will result in transferring the shares to the abovementioned persons.

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