

Tax Legislation Updates

No significant amendments have been made in Georgian Tax Legislation in February 2020.

Other Legislative Amendments

In cooperation with the donor organizations, after several years of work, it is continuing reformation on insolvency law in Georgia, the basis of which is the law on “Rehabilitation and Collective Satisfaction of Creditors”, elaborated by the Ministry of Justice of Georgia. The draft law was published on the Legislative Herald of Georgia’s official web-site for public review on 6th February. Notwithstanding the fact that the enactment of law is anticipated on 1st June, still the legislative initiative has not been submitted to the Parliament of Georgia.

The draft law provides modern regulations for the insolvency law, which offers the utmost approximation of national law to the international standards and best practices. Not only the essential matters are regulated in a new way by the draft law, but also the changes are concerning the title of law, where the rehabilitation of a default company and satisfaction of creditors is accentuated rather than the indebtedness of the debtor. Hence, the rehabilitation tends to be the baseline for the indebtedness process of the default entities.

One of the remarkable differences between the current law on the “Insolvency proceedings” and the draft law is that the notion of security is no longer ignored and the secured creditor will have the right to receive satisfaction out of the thing before all other creditors. Consequently, secured creditors will not fall in the que alongside with other creditors, who will receive satisfaction from the insolvency assets rather than from security. In addition, the draft law provides new categories of creditors – creditors who have preference claims and/or preference tax claims.

According to the draft law, the list of debtors, subjected to the rehabilitation or bankruptcy is broadened and such proceedings can be launched against companies, established in a foreign country, whose permanent place of business is on the territory of Georgia. Although the

bankruptcy of natural persons was deliberated, eventually the bill did not reflect such discussions.

It is remarkable, that the alternative resolution of insolvency case is foreseen by the bill, namely the draft law provides the resolution through regulated agreement, which will enable the creditors and debtors to resolute the indebtedness of a debtor through negotiation, without court’s strict involvement in the case. However, courts are not fully precluded from the right to supervise the process.

The significant change concerns the enactment of insolvency practitioner’s institute, by which a specialized person will be involved in the insolvency proceedings. Hence, the bankruptcy manager, supervisor of rehabilitation and/or the supervisor of the regulated agreement shall be the one who is specialized in the field of insolvency. The proceedings and requirements for the authorization and specialization of, as well as the determination the categories for the insolvency practitioners, will in turn fall in the authority of the Ministry of Justice of Georgia. By this way, it is planned to ensure high standards for the specialized persons involved in the insolvency case.

Along with new regulations, draft law provides some similar regulations to the current law on “insolvency proceedings” for certain issues. Namely, the similar provision concerns the bankruptcy and liquidation procedures to a company, which on the date of submitting application about bankruptcy, lacks the sufficient funds to pay court fees. The next similarity relates to the voidable transactions (instead of the prejudicial transactions). Meanwhile, the list of voidable transactions, as well as the procedural mechanisms for the protection of creditors is broadened. Here the terminological inaccuracy should also be mentioned, which attributes to the bill – by the draft law the period for rescission and the limitation period are messed up in each other. As far as the rescission and limitation periods are legally different categories, it is necessary to comply the provision with law.

The change will also affect the order of satisfaction of creditors and will be adjusted to more equity principles. Administrative penalties, as well as penalties accrued under the Tax Code, fall under the que of unsecured creditors.

The draft law also changes the amount of court levy and differentiates it for individuals and legal entities. The minimum (500 GEL) and maximum amounts of the levy

(5000 GEL for a natural person and 10 000 GEL for a legal entity) and the basis for its calculation shall be established (the court levy shall be 3% of the insolvency assets).

In addition, the draft law provides for conflict of law regulations in the event of existing an element of international insolvency, as well as the recognition and enforcement of foreign country's insolvency decisions. Both changes are novelty for Georgian insolvency law.

Eventually, it should be noted that, as explained in the explanatory note, the draft law does not represent a reception of single specific country law, but rather reflects the principles and best practices of different legal systems. Accordingly, it can be said that when the bill is

passed, a significant step will be taken to improve the performance of insolvent enterprises and to satisfy creditors.

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