

Tax Legislation Updates

In order to approximate Georgian legislation in the field of taxation with the EU legislation and other international legal instruments, on July 14, 2020, significant changes were made in the Tax Code of Georgia. The amendments affected all the provisions of the VAT Regulation of the Tax Code of Georgia, due to which the relevant legislative norms, in particular, the "Section VI" of the Tax code of Georgia, have been fully revised. Other provisions of the Tax Code have undergone significant changes as well, including:

- Acknowledged tax arrears, among other conditions provided by the Tax Code, constitutes tax arrears if taxpayer by submitting a written refusal to the tax authority, refuses to appeal the tax claim;
- According to the amendments, insurance and/or reinsurance operations, including ancillary services provided by the insurance broker and/or insurance agent is determined as financial transactions and/or financial services;
- Taxation of income for a hired work at an international company is determined at a rate of 5%;
- In connection with the enactment of the Law of Georgia on Investment Funds, a new provision on investment funds has been added to the Code;
- A list of public authorities that have the right to receive identified information about the taxpayer from the tax authority has been added;
- The legal grounds for issuing a preliminary decision were specified;
- The basis of the relationship with the personal tax advisor, instead of a contract, will be determined by a normative act of the Minister of Finance;
- A new article has been added to the Code, which regulates the legal grounds for the implementation of the alleged imposition of taxes and its cancellation;

- For the purposes of income tax, it has been specified that in order to determine the term of ownership of an asset, the date of its delivery, including its sale, is the date of drawing up the document on transferring the title, on the basis of which the transfer of ownership to another person is registered with the registering authority. If no registration occurs in the property registration authority - the moment of transfer of ownership is the date of its delivery, including its sale;

Amendments to VAT regulations

General principles of VAT taxation - for the purpose of VAT, the meaning of taxable person, fixed institution, ancillary, directly related, continuous, regular and electronic services, voucher, small gift, taxable dealer, real estate, market price and many other terms has been defined. According to the changes, temporary importation of goods is not considered as a taxable transaction any more.

Taxable Transactions - the transfer of ownership on material property is considered as delivery of goods. Under the amendments, the actual transfer of goods under a lease or other similar contract, subject to the right to buy back, is also considered as delivery of goods. Delivery of goods free of charge is considered as delivery of goods in exchange for payment only if the VAT payer has fully or partially deducted VAT on this goods or the expenses incurred on it. The amendment defines the principles of taxation of transactions through voucher.

Place of service delivery - according to the changes, the place of service delivery is differentiated according to whether the recipient of the service is VAT taxpayer or not, in particular, if the recipient of the service is VAT taxpayer, then the place of service is determined according to the place of establishment or fixed location of the service recipient. If the recipient of the service is not VAT taxpayer, place of delivery of the service shall be determined according to the place of establishment of the service provider or the location of the fixed establishment.

Exceptions to this general rule are established for telecommunication services provided to a non-taxable person, broadcasting or electronic services, services provided to a non-taxable person outside Georgia, etc.

Time of taxable transaction - general and special rules are set for determining the time for taxable transaction. As a general rule, the time of delivery of goods or provision services is considered to be the time of VAT taxable transaction. A special rule is established:

- a) in case of reimbursement of the costs of the services in advance;
- b) in case of provision of continuous and regular services;
- c) when delivering real estate, etc.

Taxable amount - the taxable amount is the full amount of compensation received by a person in compensation for the supply of goods, rendering of services, costs, loss or shortage, including subsidies directly related to the price of goods / services.

According to the changes, the interest provided for in the leasing agreement will not be included in the amount taxable with VAT.

The list of cases when the VAT taxable amount for the transactions between the related parties shall be determined by the market price of the goods/services has been clarified.

Special rules - the principles of proportional deduction of VAT are established. In particular, if the goods or services are used by a taxable person, both for transactions for which he is entitled to a VAT deduction and for transactions for which he is not entitled, only the part of VAT amount shall be deducted, to which transaction a taxpayer has obtained a deduction.

The amendments in the value added tax will take effect from January 1, 2021. A detailed overview of the changes to the tax code of Georgia can be found in the explanation note¹.

Amendments to the Code of Administrative Offences and Criminal Code

According to the amendment to the Code of Administrative Offenses, the import of motor gasoline and/or diesel fuel on the territory of Georgia, the quality of which does not meet the quality requirements of

motor gasoline and/or diesel fuel determined by the Government of Georgia, will carry a fine of legal entity or natural person in the amount of GEL 30 000 and in the amount of the customs value of the imported fuel multiplied by 10. For the purposes of calculating the customs value of fuel, the price of the goods indicated in the customs declaration shall be taken into account.

Administrative liability is also provided for the production of motor gasoline and/or diesel fuel on the territory of Georgia, the quality of which does not meet the quality requirements of motor gasoline and/or the norms of diesel fuel defined by the Government of Georgia. In case of production of such fuel, the offending natural or legal person will be fined with GEL 30,000 plus the amount of production cost of the fuel multiplied by 10. At the same time, the production cost of fuel according to the amendments is determined as the amount actually spent on fuel production.

Also, the supply of motor gasoline and/or diesel fuel on the territory of Georgia, the quality of which does not meet the quality requirements of motor gasoline and/or the norms of diesel fuel defined by the Government of Georgia, will result in a fine of GEL 20,000 for natural or legal persons and in the amount of the actual price (liter) of the delivered fuel in the warehouse multiplied by 5. According to changes, delivery price of the fuel supply refers to the selling price of the fuel recorded during the inspection process.

The commission of the same action by a person who has previously been imposed with an administrative penalty for committing an administrative offence discussed above, or by a person convicted of the same criminal offence, shall give rise to criminal liability. However, an exception is allowed in the case when a person voluntarily surrenders the relevant fuel, if there are no signs of other crime in his action. It shall be deemed to have been voluntarily surrendered fuel where a person, prior to the commencement of an investigation, in writing or by any means of communication expresses the will to submit the item and actively takes action to facilitate its removal.

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