

Tax Legislation Updates

Changes in the Tax Code

No changes were made in the Tax Code of Georgia in January 2023. Only certain changes came into force from 1 January, more details of which can be found in our review of legislative changes for December 2022.

Changes in the Orders of the Minister of Finance of Georgia

According to Order No. 14 of the Minister of Finance of Georgia, an amendment was made to Order #996 of December 31, 2010 "On Administration of Taxes".

Pursuant to the mentioned amendment, the enterprises with the status of tourist enterprise will have the obligation to fill in the corresponding form of declaration of value added tax in case of the expiry of the term of status or early cancellation of it.

Also, by order #13 of the Minister of Finance of Georgia, an amendment was made to the order #994 of December 31, 2010 on "Approving Current Control Procedures, Writing Off of Inventories, Repayment of Recognized Tax Debt and Implementation of Tax Debt Enforcement Measures".

Changes in the Orders of the Head of Revenue Service

➤ By the order N33543 of the head of the revenue service of December 29, 2022, the methodological reference "On the enterprise of the free industrial zone" was approved.

The methodological reference defines the rules of activity of the free industrial zone enterprise, including the permitted and prohibited activities, the rules for using tax benefits, as well as defines the tax obligations and rights within this status.

➤ According to the order of the head of the revenue service N33544 of December 29, 2022, the methodological reference on "Taxation of profits of the virtual zone person" was approved.

The methodological reference "On Taxation of Profits of a Virtual Zone Person" explains the rules related to granting and cancelling the status of a virtual zone person, as well as defines the tax obligations and rights within this status.

➤ An amendment was made to the Order #7536 of the Head of the Revenue Service dated March 17, 2021, "On Approving the Methodological reference on Value Added Tax".

Based on the amendment, example # 6 was added to Part 2 of the Appendix of Order # 9, which regulates the issue of determining the tax liability related to the VAT, in case of replacement of the receiving party of the leasing object.

Changes to the Situational Guidelines

In January 2023, the following situation guidelines were approved:

Socio-economic support of the population affected by hostilities - N1517

Taxation of money withdrawn from system-electronic gaming account - N2432

Capital reduction - N2549

Capital increase - N2550

Methodological hub - infohub.rs.ge

On December 28, 2022, the Revenue Service of the Ministry of Finance of Georgia published the information about launching new information and methodological hub. From January 1, 2023, infohub.rs.ge became available. This is the latest, digital, informational and methodological hub, which currently operates in test mode. It makes the information even more accessible to all users, and the

process of obtaining information itself is significantly simplified.

It should be noted that the electronic information platform - Infohub will contribute to the existence of a systematic and uniform tax practice, it will give an opportunity to the interested person to find, process and share information/documentation of interest to him/her.

Other Legal Updates

An Important Decision of the Constitutional Court of Georgia

On February 3, 2023, the Constitutional Court of Georgia upheld the constitutional lawsuit challenging the constitutionality of Article 186, Part One, Subsection "h" of the Civil Procedure Code of Georgia. According to the specified norm, the judge had the right not to accept the claim for admissibility purposes, if the formal requirements of the claim was not preserved, regardless of the nature of the defect. Thus, the corresponding regulation of the Code of Civil Procedure gave the judge the right to refuse admission of the claim and return it to the plaintiff, regardless of what type of error was made in it.

Despite the fact that after the correction of such technical errors, the plaintiff can still apply to the court with the same lawsuit, according to the author of the constitutional complaint, this leads to a disproportionate limitation of the right to a fair trial, delays the process and makes the plaintiff to lose interest in litigation.

The Constitutional Court shared the views of the author of the complaint and explained that the Civil Procedure Code of Georgia establishes a wide range of requirements for submitting a complete claim, the violation of which may have a different impact on the completeness of the claim and the formation of the claim. In some cases, it is possible that there is an error in the submitted claim, correction of which would effectively equate to filing a new claim or there is an error that can be clarified/corrected through simple communication with the party. The Constitutional Court found that regardless of the nature of error made in the claim, the disputed regulation provides blanket rule that the claim will not be accepted for review, thereby limiting the right to a fair trial.

According to the position of the Constitutional Court, the rule established by the contested norm in relation to claims that can simply be clarified, cannot ensure the protection of the court from overloading or the achievement of the goal of efficiency of the process. On the contrary, instead of easily correcting the mistake by communicating with the party, based on the disputed norm, the court has to first deliver a reasoned judgement declaring the claim inadmissible, and after submitting the amended claim, reconsider the issue of admissibility of the claim. According to the view of the Constitutional Court, such arrangement hinders the right to a fair trial and the effective protection of the rights of the person.

Along with the recognition of the disputed rule as unconstitutional, its invalidation was postponed until July 1, 2023, in order to give the Parliament of Georgia a reasonable time to implement the necessary changes for the implementation of the decision.

The Cash Assistance for the Period of Paid Leave due to Pregnancy and childbirth, Paid Leave due to Child Care, as well as Paid Leave due to the Adoption of a New-born

According to the Resolution #33 of the Government of Georgia of January 24, 2023, the amount of monetary assistance to be given during the period of paid leave due to pregnancy and childbirth and paid leave due to child care, as well as paid leave due to the adoption of a new-born, was determined at a total of no more than 2000 (two thousand) GEL, instead of the previous 1000 GEL.

According to the resolution, only public school teachers were defined as persons who, along with the above-mentioned assistance, will be entitled to receive additional remuneration during the vacation period to the full amount of salary, to be given for labour (at the same time, the amount of assistance to be given during the vacation period will be calculated based on the official salary and additional allowances).

It is important that the effect of the decree will be extended only to those employees who will take advantage of leave due to pregnancy and childbirth, leave due to child care and leave due to the adoption of a new-born, starting from January 1, 2023, in particular, the effect of the decree will be extended to a) the period of leave due to pregnancy and childbirth based on the hospital certificate, opened from January 1, 2023; b) for the period of leave due to child care to

the period after the birth of the child from January 1, 2023; c) for the period of leave due to the adoption of a new-born, based on the entry into legal force of the court decision on adoption after January 1, 2023.

In addition, according to the Order #7/N of the Minister of Internally Displaced Persons from the Occupied

Territories of Georgia, Labour, Health and Social Protection dated February 2, 2023, the amount of total assistance is calculated in the case of the use of leave by both employed parents, in proportion to the days used or in the case of use of leave by one of the employed parents.

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