

Tax Legislation Updates

- The Parliament of Georgia is considering the draft law on amendments to the Tax Code of Georgia, according to which the exemption from the VAT should apply to those constructions on which certain administrative proceedings for issuing construction permits started before August 8, 2008, and the construction has not been accomplished until now and at the same time, if any of such facilities have modified design documents (architectural project), the old building demolished and a new construction permit has been issued since August War 2008.

In particular, as a result of the amendment, supply of immovable property and delivery by the supplier of immovable property of construction and installation services related to the property supplied shall be VAT exempt with the right to deduct if one of the following conditions are met:

A) the construction of an immovable property is subject to the construction permit valid for August 8, 2008;

B) as of August 8, 2008, the project documentation for the immovable property (architectural project) was agreed with the authorized authority, and the construction permit was subsequently issued;

C) in the period after August 8, 2008, the project documentation (architectural project) was changed on any of the immovable property provided for in paragraphs (a) or (b) above, or the existing building was demolished and a new construction permit was issued.

If the bill is passed, it will have retroactive effect and will apply to legal relationships arising from January 1, 2015.

- The Draft Law on Amendments to the Tax Code of October 20, 2021, envisages the addition of Articles 32¹ and 81¹ to the Tax Code of Georgia, which will relate to the organization receiving the charitable donation, determine the amount of the donation and the terms of its transfer. In turn, charitable donation is defined as the relevant part of the tax rate provided for in Article 81 of the Tax Code, which, at the

voluntary request and initiative of the income taxpayer, shall be used for the activities of the organization receiving charitable donation within the framework of its registration.

According to the amendments to the Tax Code, organization receiving charitable donation is an organization established in accordance with the legislation of Georgia as a non-profit (non-commercial) legal entity (including a religious organization) and thus registered in entrepreneurial and non-entrepreneurial (non-commercial) legal entities` registry, has at least 3 years of continuous experience in providing charitable activities as defined in its founding documentation, and at the same time also meets the requirements of the Tax Code.

The Revenue Service will register a legal entity as an organization receiving charitable donation. Along with the registration, the organization will be obliged to fulfill its obligations and responsibilities, in particular, the organization receiving charitable donation must submit to the relevant tax authority by April 1 of each year:

A) program report on activities, carried out for the last year, which must contain a description of the activity;

B) Financial documents of the last year (balance sheet and profit and loss account) certified by an auditor registered in accordance with the rules established by the effective legislation.

The above documents should be published and made available to all interested parties.

In case of cancellation of the registration of the organization receiving charitable donation due to violation of the requirements for the organization receiving charitable donation, established by the Tax Code, the organization will be obliged to return to the state budget the part of the charitable donation, related to the violation of those requirements.

According to the amendment, the amount of a charitable donation may not be more than 2% of the rate provided for in the first part of Article 81 of the Tax Code, which based on the request made towards the tax authority, at the voluntary request and initiative of the income taxpayer or the employer, may be transferred in the form of a charitable donation to the organization receiving the charitable donation within the framework of its registration.

The amendment is planned to take effect on September 1, 2022 if it is adopted.

According to the explanatory note of the bill, the main problem that the bill intends to redress is the lack of funds available to the charitable organizations, which in turn results in insufficient supply of social care and other charitable services to the vulnerable persons,

who need social or other assistance. Accordingly, as a result of the adoption of the bill, the legislator aims to ensure that the organizations that provide free social and charitable services will have access on certain financial resources.

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