

## Tax and Legal Newsletter

### Upcoming Changes in Tax legislation

In March (2018) the Government of Georgia proposed amendments to the Tax Code of Georgia. The initiative, along with other amendments, addresses the following significant issues:

- According to the bill, since July 2018, regulations related to taxation of small business changes. Taxable income of a small business, shall be taxed at the rate of 1%, instead of 5%. The limit of small business gross income received from economic activity during the calendar year increases from 100,000 to 500,000 GEL. Conditions for revocation of small business status also changes. The Government of Georgia will still be entailed to determine the types of income that will not be taxed under the special taxation regime and shall not be included in the gross income (with the limit of 500,000 GEL).
- From 2019, taxation of organization, performing economic activity, will be carried out pursuant to the new model of profit taxation.
- Special norms for VAT taxation of long-term contracts will be canceled.
- Sub article 8 of article 189 of Tax Code of Georgia will be amended: an importer may, under the established procedure, get a refund of excise paid on vehicles and motorcycles

(including mopeds) if the assets are exported within 90 days (following import).

- Commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops shall continue with the current model of profit tax assessment until 1 January 2023 (taxing the difference between gross income and allowable deductions).

### Other Legal Updates

#### Civil Procedure Code of Georgia

New changes have been made in the Civil Procedure Code of Georgia concerning matters dealing with magistrate judges, special jurisdiction, admissibility, and value of appeal.

According to the amendment, Magistrate judges shall hear at the first instance the property disputes, provided the value of the action does not exceed GEL 5 000 (in the previous edition the upper limit was 2000 GEL).

Sub-Article 5 of has been added to article 16 of the Civil Procedure Code which defines the following: Claims arising from agreements on granting loan (credit), issued by qualified banking institutions, microfinance organizations and non-bank depository institutions of Georgia, shall be submitted to the Court according to the residence of the defendant.

The list of cases of jurisdiction of one judge in the Court of Appeal has been changed, particularly, a judge of the civil chamber of the court of appeals sitting alone may hear cases of the civil matters falling under the jurisdiction of magistrate judges, Property-legal disputes, the value of which does not exceed 20 000

GEL (in the previous edition it was 10, 000 GEL), labor disputes.

According to the amendment, an appeal in a property dispute shall be admissible only if the value of the subject matter of the dispute exceeds 2 000 GEL (in the previous edition it was 1 000 GEL). This value shall be determined based on the extent to which the party requests that the judgement appealed be modified.

List of disputes which are subject to reviewing without an oral hearing has been increased. The court of appeals may review the following cases and deliver a judgement without an oral hearing: appealing ruling of first instance court regarding dismissing the complaint and upholding the default judgement, recovering the property from illegal ownership, disputes based on the agreements on issuing loan (credit) made by qualified banking institutions (including electronic form), microfinance organizations and non-bank depository institutions.

## Important Court Cases

The Court of Appeals of Georgia has made an interesting decision regarding applying provisional measures allowing the satisfaction of the claim. The author of the appeal was LEPL Revenue Service, while the respondents were a limited liability company and a person.

The subject of discussion was expediency of applying provisional measures allowing the satisfaction of the claim in the Tax legislation. The Court has explained that in the present case, the subject of the dispute was acknowledgement persons as alter ego persons related to the collection of taxes. The property for which the claimant requires seizure, is in defendant's ownership defendant may at any time dispose it, including the

alienation of the property. In such a case, if the provisional measures allowing the satisfaction of the claim will not be used, the risk may be that the property moves to the other person's ownership, which will make impossible to enforce the court decision in case of satisfaction.

As for the assumption and the possibility of disposal of property, it derives from the contents of the dispute. Specifically, the request for the claim was an acknowledgement of persons as alter ego ones, who is related to the collection of taxes, and in the such cases one of the means of defense is the alienation of property owned by the defendant.

According to the Tax Code of Georgia, If court establishes that it is practically impossible to differentiate a taxpayer from another person and this person is used to avoid the measures of enforced tax collection it shall be deemed that the mentioned persons are alter ego.

The property owner, having regard to the circumstance that in case of satisfaction of the claim, he finds himself at a disadvantage, will allegedly sell the property formally to another person, which will make it impossible to enforce the court decision in the event of satisfaction of claim.

Based on the above, and considering that the property owner may have made the false registration of the transaction, and there is no legal control mechanism for it, the court found that there is a need for applying provisional measures, because the latter's goal is to prevent the possible obstacle of execution of the court decision.

In the present case, the only purpose of one of the parties - the tax authority (public purpose), is not to



prevent the payment of taxes in favor of the state budget.

Accordingly, the court of appeals of Georgia has satisfied the appeal regarding applying provisional measures allowing the satisfaction of the claim and has seizure the properties of the defendants.

This ruling can be fully viewed at the web page of Court of Appeal with the case number: N3b/2727-17 (330310117002084106).



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