

TAX NEWSLETTER

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AMENDMENT TO THE LAW

By the Law of President of Georgia (N1935-rs, 23/12/2017) the amendment has been made in Georgian Tax Code. The amendment covered following issues:

DEFINITION OF TERMS

According to the amendment:

- ▶ Tax arrears is considered to be acknowledged, if a person electronically or in written form denies to appeal a tax notice issued by a tax authority, or the decision of a dispute resolution authority. In previous edition only written form was allowed.
- ▶ Dividend is also considered to constitute the transferring of securities issued in Georgia by resident legal entity with public offering and recognized by Georgian National Bank as securities allowed for trading on organized market
- ▶ The definition of floating securities is canceled
- ▶ Tax year is considered to be a calendar year.

The law came into force from 29 December 2017.

SPECIAL TRADE ZONE

According to this law the amendment has been made to article 26, which defines the regulations for special trade zone. According to amendment a legal person can have the status of special trade zone only by its own initiative and not by the initiative of Georgian Government.

The obligations, that were imposed by Georgian tax code for the person with status of special trade zone, will be in force from 1st of January of the following year after receiving the special trade zone status and not at the moment of receiving the status.

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MARKET ORGANIZER

By the law the article 26² was added to Tax Code of Georgia, which defines the rules and obligations for market organizer, definitions related to market's organization process and the obligations of the person who is trading in that area.

This amendment is in force from 1 January 2018.

This article also defines, that the income received by the natural person who trades on the territory of market, is taxable at the rate of 3%, without deductions. And submission of tax return and respective payment is due no later than 15th day of the month following the reporting month. The amendment shall come into force from 1 January 2020.

The special article of penalties stated for market organizer was added to the part of tax offence and fiscal responsibilities of GTC. The amendment is in force from 1 January 2018.

Another amendment related to the persons conducting market organizing till 1 January 2018 (except for the organizing a market for agricultural products) has been added also to the article 309. According to it such persons are liable to:

- ▶ apply to tax authority for receiving the status of market organizer no later than 1 July 2018
- ▶ provide tax authority with the information about the natural persons, trading on the territory of the market, no later than 1st of July
- ▶ ensure 1/3 of non-stationary trading places placed on market's territory with control-cash

machines no later than 1 January 2019

- ▶ ensure 2/3 of non-stationary trading places placed on market's territory with control-cash machines no later than 1 July 2019

- ▶ ensure totally non-stationary trading places placed on market's territory with control-cash machines no later than 1st January 2020.

Amendment is in force from 1 January 2018.

This law also defines, that for the persons who were organizing market till 1st of January 2018 under the status of special trade zone, the mentioned status shall be considered as canceled.

This amendment is in force from 1st of January 2018.

GRANTING RESIDENCE STATUS TO NATURAL PERSON

Part 6² has been added to the article 34 of GTC, based on which foreigner can be granted with Georgian residence in accordance with the rule defined by Ministry of Finance of Georgia.

Law is in force from 1 January 2018.

FREE FLOATING SECURITIES

Amendment to article 8, based on which definition of free floating securities was abolished, caused the changes into the articles 82, 99, 130 and 131. The corresponding parts of these articles were canceled related to the exemptions from personal income tax, CIT and withholding taxes.

The law came into force from 1 January 2018.

EXEMPTION FROM PERSONAL INCOME TAX

Amendment has been made to the article 82 of GTC, based on which exemption date was prolonged till 1st of January 2023 for the taxable income from original delivery of the agricultural product produced in Georgia by the person hired in agricultural production and for the salary given to the natural person employed in this production, if gross income from this kind of delivery and gross income of employer from this kind of delivery does not exceed 200 000 GEL for the reporting period.

Personal income tax exemption also applies to:

- ▶ Income received from transferring of securities issued in Georgia by resident legal entity with public offering and recognized by Georgian national bank as securities, allowed for trading on organized market
- ▶ Interest income from transferring of securities issued in Georgia by resident legal entity till 1st of January 2023 with public offering and recognized by Georgian national bank as securities, allowed for trading on organized market
- ▶ Interest income from transferring of securities issued in Georgia by resident legal entity with public offering and recognized by Georgian national bank as share securities, allowed for trading on organized market.

Note added to this article also states that, mentioned tax reliefs also can be used in case if, loan/equity securities are recognized by National Bank of Georgia as allowed for trading on organized market.

Law is in force from 1st of January 2018

TAXABLE OBJECT FOR CORPORATE INCOME TAX

Following were added To the list of persons, for whom taxable object for corporate income tax purposes is considered as difference between gross income received during the reporting period and deductions based on GTC (article 97):

- ▶ participants of the project of transportation of oil via Baku-Tbilisi-Ceyhan (BTC) pipeline through the territories of Georgia, Republic of Turkey and Azerbaijan, drafted between Georgia, Republic of Azerbaijan and Republic of Turkey, profits received from the project participants within this project
- ▶ profit received by the participants, from the project of transmission, transportation and realization of natural gas via The South Caucasus Pipeline, SCP on and out of the territories of Georgia and Republic of Azerbaijan, drafted between republic of Azerbaijan and Georgia.

This law is in force from 29 December 2017

DISTRIBUTED PROFIT

Amendment to the article 8 caused changes to the article 98¹ (distributed profit) in the dividends definition part, according to which payment made to the

shareholders in form of shares shall not be considered as distributed profit, except for the transferring of securities issued in Georgia by resident legal entity with public offering and recognized by Georgian National Bank as securities, allowed for trading on organized market.

This law is in force from 1 January 2018

EXEMPTION FROM CIT

According to the amendment made to the article 99 (exemptions from corporate income tax) exemption date was prolonged till 1st of January 2023 for the distribution of income received by agricultural cooperation from producing and delivering primary agricultural product before industrial processing (before changing the commodity code) in Georgia and expenses related to this activity.

Following shall also be exempt from CIT:

- ▶ Income received income by non-resident person from delivering loan securities issued in Georgia by resident legal entity with public offering and recognized by Georgian National Bank as securities, allowed for trading on organized market, which is not related to the permanent establishment of this non-resident in Georgia
- ▶ Interest income received by non-resident from loan securities issued in Georgia till 1 January 2023 by resident legal entity with public offering and recognized by Georgian National Bank as securities, allowed for trading on organized market, which is not

related to the permanent establishment for this non-resident in Georgia

- ▶ Received income by non-resident person from delivering equity securities issued in Georgia by resident legal entity with public offering and recognized by Georgian national bank as securities, allowed for trading on organized market, which is not related to the permanent establishment for this non-resident in Georgia.

Note in this article indicates that, above mentioned tax reliefs also can be used in case if, loan/equity securities were allowed on organized market until they were recognized by National Bank of Georgia. Herewith, above mentioned tax reliefs are applicable from the date when Georgian National Bank recognizes them as organized market.

The law is in force from 1 January 2018.

GROSS INCOME

Amendment was made to paragraph "g", part 4 of the article 100 from GTC:

The supply of agricultural products produced in Georgia as a result of agricultural activity between an agricultural cooperative and its members (shareholders) and/or service related to such activity will not be included in gross income. Before this amendment, the period was determined till 1 January 2018.

The law is in force till 1st January 2018.

TAXATION OF DIVIDENDS AT THE SOURCE OF PAYMENT

Amendment was made to the article 130 of GTC (taxation of dividends at the source of payment), according to which before 1 January 2018 dividends earned by a member of an agricultural cooperative from this particular cooperative should not have been taxed and should not have been included in gross income by the person earning the dividends. By the amendment above-mentioned period is prolonged up to 1 January 2023.

The amendment came into force from 1 January 2018.

EXEMPTION FROM VAT

The amendment was made to the article 168:

- ▶ The supply and/or import of medical/treatment products according to a list set forth under the joint order of the Minister of Labour, Health and Social Care and the Minister of Finance of Georgia was exempt from VAT without the right of deduction only in case if such products were purchased in accordance with restriction, namely in accordance with the Law of Georgia on State Procurement within the framework of state programs. By the amendment such restriction is canceled
- ▶ Supply and/or import of goods stipulated under the codes 2844 (radiopharmaceuticals) and 9619 00 000 00 (Sanitary-hygienic diapers and tampons, baby diapers and similar products from any materials) of Foreign Economic Activity National Commodity Nomenclature shall be exempt from VAT without the input VAT right

▶ According to the amendment, supply and/or import of goods stipulated under the codes 4901 and 4903 00 000 00 (books) of Foreign Economic Activity National Commodity Nomenclature, as well as printing services and/or sale of above-mentioned goods shall be exempt from VAT with the input VAT right. Before amendment supply and/or import, as well as printing services and/or sale of all above-mentioned goods were exempted from VAT without the input VAT right.

The amendment came into force from 1 January 2018.

VAT RETURN TO VAT PAYER OF THE EU MEMBER STATE

By the same law article 181¹ was added to chapter 6 of the Tax Code which regulates returning VAT to VAT payer of the EU member state.

According to the tax code VAT payer of the EU member state shall be entitled to claiming back the VAT paid at the time of purchase of goods (except immovable property) and/or services or at the time of importing goods in Georgia if all of the following conditions are met:

- ▶ A person does not carry out economic activity through a permanent establishment in Georgia or the person's place of activity or permanent residency is not in Georgia
- ▶ Goods/services purchased in the Georgia or imported goods by a person are used in VAT taxable transactions
- ▶ In case of similar operation held by the person registered as a VAT payer in Georgia under the tax code would be authorized to credit paid VAT.

In addition, VAT payer of the EU member state is obliged to designate an authorized representative.

According to the above-given article of tax code mentioned representative is responsible for tax obligations within the framework of the VAT return.

The amendment came into force from 1 January 2018.

EXCISE RATES FOR ALCOHOLIC BEVERAGES

The excise rates for alcoholic beverages were stated separately in the new 188¹ article. The respective note defines types of excisable goods and three types of formula calculating the amount of excise payable, namely:

- ▶ The excise amount = excise rate × quantity of goods × percentage of alcohol in the given goods
- ▶ The excise amount = excise rate × quantity of goods
- ▶ The excise amount = excise rate × percentage of alcohol in the given goods.

The amendment came into force from 1 January 2018.

SUBMISSION OF EXCISE TAX DECLARATION

The amendment was made into the first paragraph of article 191 (submission of excise tax return), which determines the list of persons who shall submit an excise tax declaration.

By this amendment the mobile communication service providers are no longer on the above-mentioned list.

The amendment came into force from 2 January 2018.

MARKING WITH EXCISE STAMPS

The amendment was made to the second paragraph of article 192, which defines types of goods that shall be exempt from mandatory marking with excise stamp. Before the amendment marking with excise stamp was mandatory for alcoholic beverages, alcohol content of which is higher than 1.15 degrees. Now marking is mandatory for all alcoholic beverages regardless of alcohol content.

The paragraph on exemption from mandatory marking with excise stamp was subject to changes, by which under 4 liters of alcoholic beverage imported in the country shall not be subject of mandatory marking with excise stamp only if those are delivered by post.

The amendment came into force from 1 January 2018.

EXEMPTION RULES OF EXCISE AND IMPORT DUTIES

► Restriction of import of cigarettes, cigarillos, cigars, tobacco products or similar types of products is removed only if such import is held by natural person using air transport. Import of goods with limited quantity as regulated under the tax code by the passenger using any form of transport shall be exempt from payment of imports and excise taxes.

► Payment of excise without input right and import tax is exempt: if a passenger imports total 1 liter of alcoholic drink with 22% and higher alcohol content or non-denatured ethyl

alcohol with 80% and higher alcohol content or import of 2 liters of alcoholic beverages containing less than 22% alcohol, or import of types of alcoholic beverages (except beer and wine) listed in this subparagraph if the percentage (percentage corresponding to the limit) of each types of alcoholic beverages (except beer and wine) does not exceed 100, also in case of importation of 16 liters of beer, as well as import 4 liters of wine, which will be transported by passenger with baggage and/or hand luggage and which is not intended for economic activities.

► Pharmaceutical products used to manufacture alcoholic beverages (liquid) and alcoholic beverages in which alcohol content does not exceed 1.2% shall be exempt from excise without credit. The note in this particular regard states that for import or production of the above-mentioned goods excise tax is payable. However, in case of submission of an excise tax return, buyer of these goods is entitled to returning or crediting tax liabilities in the amount of excise tax paid. In addition, under the same note it shall be considered that the goods are not intended for economic activity if this is a one-time import and intended for personal or family consumption and/or as gift. Import of goods is deemed one-time if occurred no more than once in the in 1 calendar day case of an air transportation or within 30 calendar days in case of other means of transportation.

► Exemption period of import tax for raw materials of tobacco was prolonged from 2018 to 2023.

The amendment came into force from 1 January 2018.

PROPERTY TAX RATE

The amendment was made to the article defining person's family income during tax year. Now during tax year in case if natural person is trading in the market place, his/her family income shall include 15% of sales revenue received from the market place and taxable income of such natural person, that does not belong to above-mentioned source of income.

The amendment came into force from 1 January 2020.

EXEMPTION FROM PROPERTY TAX

Property (except land) used for agriculture activities owned by agricultural cooperative and leased movable property for the same activities is exempt from property tax. By the amendment exemption period lasted from 1 January 2018 to 1 January 2023.

The amendment came into force from 1 January 2018.

VIOLATING THE RULES OF USING A CASH REGISTER

The amendment has been made into the article about violating the rules of using a cash register and it was specified that the failure to use a cash register by a natural person employed in a non-stationary trading place located in the market area shall not be a subject of fine.

The amendment came into the force from 1 January 2020.

TRANSITIONAL PROVISIONS

The amendment was also made in the article of transitional provisions of the tax code. Changes were related to the following issues:

FLAT TAX PAYER

As a result of the amendment, rental service for short-term period of apartments owned by a natural person shall be taxable at a fixed income tax rate until 1 January 2023 in the event of applying to the tax authority, if he/she is not voluntarily registered as a VAT payer or the total sum of the transactions performed by him/her in this part of activity in any 12 continuous calendar months does not exceed GEL 100 000. Before the amendment above-given period was defined as 1 January 2018.

DEDUCTION OF PROFIT TAX

Within transitional provisions paragraphs 93¹ and 93² were added, according to which paid profit tax shall be subject to deduction not only in case of distribution of dividends, but also in case of contribution by person in the non-resident's/the person's exempt from profit tax capital. The amendment came into force from 1 January 2018.

DISTRIBUTION OF PROFIT BY A PERMANENT ESTABLISHMENT OF A NON-RESIDENT ENTERPRISE

Paragraph 92¹ was added to the article 309, according to which distribution of profit gained until 1 January 2017 by a permanent establishment of non-residents shall not be taxable by profit tax. The amendment shall be applied

to the legal relationships originated from 1 January 2017 and came into force from 29 December 2017.

DISTRIBUTION OF DIVIDENDS

Before the amendment, for the purposes of profit tax generated during 1 January 2017 - 1 January 2019 period:

- ▶ distribution of dividends received from the commercial bank, credit union, insurance organization, microfinance organization and pawnshop was not considered as profit distribution
- ▶ distribution of dividends to commercial banks, credit unions, insurance organizations, microfinance organizations and dividend payment to pawnshop was considered as profit distribution.

The amendment defines the following:

- ▶ distribution of dividends derived from commercial banks, credit unions, insurance organizations, microfinance organizations and dividends derived from the pawnshop from 1 January 2008 to 1 January 2019 shall not be considered as profit distribution
- ▶ distribution of dividends to commercial banks, credit unions, insurance organizations, microfinance organizations and dividend payment to the pawnshop derived from profit generated from 1 January 2008 to 1 January 2017 shall be considered as profit distribution
- ▶ distribution of dividends to commercial banks, credit unions, insurance organizations, micro-

finance organizations and dividend payment to the pawnshop derived from profit generated from January 1, 2008 to January 1, 2019 shall be considered as profit distribution

The amendment shall be applied to the legal relationships generated from 1 January 2017 and came into force from 29 December 2017.

AMENDMENT INTO THE ORDER

TAXATION OF NATURAL PERSONS SUPPLYING CERTAIN TYPES OF GOODS

The amendment made to the GTC in June 2017 due to come into force from 1 January 2018. It defines taxation of natural persons supplying certain types of goods at the source of payment at the rate of 15%. By the same article it was defined that the list of goods envisaged into the article should be determined by the Minister of Finance of Georgia.

Minister of Finance has stated the above-mentioned list of goods on 29th of December 2017 which came into force from 1 January 2018 (order #996, article 393).

It was defined that the income received from supply of following goods shall be subject of taxation by 15%:

- ▶ Income received from supply of ferrous and/or non-ferrous scrap metal;
- ▶ Income received from supply of ferrous and/or non-ferrous metal waste.



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