

TAX NEWSLETTER

AMENDMENTS TO LAW

[READ MORE 2](#)

AMENDMENTS TO TRANSITIONAL PROVISIONS

[READ MORE 3](#)

AMENDMENTS TO DECREES

[READ MORE 4](#)

EXEMPTION FROM PERSONAL INCOME TAX

According to the law N97-Is (16 December 2017) the amendment came into tax code of Georgia, article defining the rule of exemption from personal income tax which comes into force from 1 January 2017.

In accordance with the edition being in force before the amendment, taxable income of up to GEL 6,000 earned by a person with the status of a person permanently residing in a high-mountain settlement from an activity in that high-mountain settlement during a calendar year, except for the income received from a budgetary organization should be exempted from personal income tax.

By the amendment it was defined that also the income received from medical establishment founded by the Government or local self-governmental body in a form of salary should not be included into the limit up to GEL6,000.

CURRENT TAXES

The amendment came also into the article 155 which defines the current taxes. According to the amendment current taxes are applicable only to the person for which the reporting period is a calendar year within the limit of activity for which the taxable object is defined a calendar year.

The amendment came into force from 2 January.

REPORTING PERIOD

By the same law the amendment came into the article 135, which defines reporting period. It was determined by the amendment that reporting period is a calendar year for all entities except from the resident enterprises moved to the new model of corporate income tax, permanent establishment of non-resident and persons organizing pari-mutuel in an electronic systemic form for which the reporting period is a calendar month.

The amendment came into force from 2 January 2017.

EXEMPTION FROM VAT

The article of VAT exemption has also been changed. The amendment defines that supply and/or importation of goods indicated in National Commodity Nomenclature of Foreign Economic Activities Codes 3103-3105 (mineral or chemical fertilizers, phosphorous, potassium and mineral or chemical fertilizers with two or three elements: nitrogen, phosphorus and potassium) except for mechanical mixture shall be exempt from VAT without the right of deduction.

Amendment came into force from 1 January 2017

CONTENTS

- ▶ Exemption from personal income tax
- ▶ Reporting period
- ▶ Current taxes
- ▶ Exemption from VAT
- ▶ Taxation of advances by VAT
- ▶ VAT credit
- ▶ Issuing tax invoice
- ▶ Excise
- ▶ Affixing of goods transferred to state property with excise stamps
- ▶ Taxation of motor cars with property tax
- ▶ Authorised economic operator
- ▶ Changes to transitional provisions
- ▶ Amendments to the decree

EDITOR'S LETTER

This publication covers critically important legislative and tax changes that business should take into consideration for their daily operations and governance. Please contact BDO LLC to discuss these matters in the context of your particular circumstances.

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TAXATION OF ADVANCES BY VAT

The amendment came also into the article 161, defining VAT taxable transactions, amount and time of the transaction. According to the amendment transaction subject to VAT shall also be advances received by supplier of goods/ services within the limits of such supply operations. This will not be applicable to the cases when goods are supplied regularly or continuously (firm capacity, electric or heat energy, gas or water), also when services are delivered regularly or continuously.

Also when selling immovable property, the time of the execution of a taxable transaction shall be the date of drafting a title deed to be filed with a registration authority for the registration of title, and where the registration (transfer) of title depends on the fulfilment by the party (parties) to such document of certain obligations and/ or occurrence of a certain condition, the date of fulfilment of such obligation and/ or occurrence of such condition shall be the time of the execution of a taxable transaction in case this moment is prior to the moment of receiving of the advance.

In addition for the purposes of VAT into the article 309 it was clarified that for goods/ services supplied after the period 1 January 2017, according to which the compensation/ the part of compensation is paid before 1 January 2017 (before supply is made), the time of taxable operation shall be the moment when goods/services are supplied.

For the purposes of VAT taxation of advance payments the time of taxable operation has amended not only for residents but also non-resident (reverse-charged VAT).

The amendment came into force from 1 January 2017.

ISSUING TAX INVOICE

The above-mentioned Amendment caused changes to Article 175 of the GTC on the rule for issuing tax invoice. According to the Amendment, a taxpayer registered as a VAT payer is liable to issue a tax invoice on the transaction of receiving advance payments at the moment of receiving advance payment.

The Amendment shall come into force from 1 January 2017.

VAT CREDIT

The Amendment has also been made to VAT crediting rule. By the Amendment creditable amount has been determined as the amount of VAT that has been paid or is payable as per tax credit related documents, including on the balance of inventory holdings available at the moment of entry into force of VAT registration.

According to the rule in force prior to the Amendment's adoption, creditable amount of VAT considered only amount which had been paid or was payable as per tax credit related documents at the time of purchasing of goods, acquisition of services, import, and/ or temporary admission of goods, including on the balance of inventory holdings available at the moment of entry into force of VAT registration.

Accordingly, the Amendment indicates that tax credit related documents may exist not only at the moment of purchasing of goods, acquisition of services, import, and/ or temporary admission of goods, but also at the moment of advance payments.

The Amendment shall come into force from 1 January 2017.

EXCISE

The Amendment has also been made to Excise according to which Excise tax rates have been increased on tobacco products, cars, oil, oil products and oil distillates. In addition, Excise rate for hybrid cars from 0 to 6 years will be decreased by 60 percent, instead of 50 percent determined up until now. As for the right-hand-drive cars or the ones with a steering wheel swapped from right to left, the Excise rate is being increased by three times of the Excise rate applicable for the cars of a relevant category.

In addition, a paragraph has been added to Article 309 determining that until 1 July 2017 motor cars under heading 8703 of Foreign Economic Activity Commodity Nomenclature are taxed by the Excise tax rates applicable before 1 January 2017 if:

- car sea freight has begun before 1 January 2017 and has been entered into customs area by sea transport no later than March 31, 2017
- A car has been entered into customs area before 1 January 2017.

In this regard, by Order N346 (30.12.2016) of the Minister of Finance of Georgia changes have been made to Order N290 (26.07.2012) of the Minister of Finance of Georgia regarding "Instruction of movement of Goods within Georgia's customs territory and its registration".

According to the Amendment, in order to determine the date of commencement of transportation, together with the transport document and the document of the purchase of goods, the person determining the processing procedure should also submit the following documents:

► Conosament which includes the date of loading such goods onto ship, indicated by the sea carrier, or

► Document issued by the sea carrier, which confirms that a car has been loaded into the shipping container and received by a sender sea port before 1 January 2017. In addition, together with other information, such document should include the container number and identification (VIN) number of the car.

In addition, in order to identify the date of commencing transportation of the car, the document issued by the sea carrier should be submitted to the tax authority no later than 5 January.

The Amendment shall come into force from 1 January 2017.

AFFIXING OF GOODS TRANSFERRED TO STATE OWNERSHIP WITH EXCISE STAMPS

The Amendment has been made to Article 192 of the GTC in regard to affixing goods with excise stamps, according to which in the case of selling alcoholic beverages transferred to state property, affixing of goods with excise stamps shall be conducted by a purchaser of such goods and/or a receiver, at the end of transportation of such goods from the appropriate authority to the storage area.

The Amendment shall come into force from 1 January 2017.

TAXATION OF MOTOR CARS WITH PROPERTY TAX

The amendment has also been made to Article 201 of the GTC which determines a property tax payer and a taxable object. According to the Amendment, from 1 January 2017 a natural person registered as a taxpayer for Property tax purposes is liable to pay property tax on motor cars under the code 8703 of Foreign Economic Activity Commodity Nomenclature, being in his ownership.

The Amendment came into force on 1 January 2017.

AUTHORISED ECONOMIC OPERATOR

By the Law of the President of Georgia (N97-I , 16.12.2016) an article has been added to the Tax Code of Georgia - Authorized Economic Operator (Article 224), according to which in case if a person meets the following conditions:

- a) Its activities are in line with the Georgian tax legislation
- b) It has a commercial and/or vehicle tracking management system that will provide the appropriate customs controls
- c) It is solvent
- d) It has relevant standards for the safety and protection

Then the tax authority, and in case of necessity after receiving consultation from other competent authorities, gives the status of authorized economic operator to such taxpayer.

Authorized Economic Operator uses simplified customs control and/or simplified customs rules related to safety and protection.

CHANGES TO TRANSITIONAL PROVISIONS

PARI-MUTUEL

The amendment has been made to Paragraph 16 of transitional provisions, which determines taxation of a person organizing pari-mutuel in an electronic systemic form. By the regulations in force prior to Amendment, the above-mentioned person's taxable income regarding the mentioned activity was taxable at a 5% rate.

By the Amendment in case of pari-mutuel organized in an electronic systemic form, the person's income taxable for Profit/Income tax purposes regarding this part of activity has been determined as the sum of received bets for each reporting month which is taxable at a 7% rate.

In this case, a taxpayer shall submit a tax return to the tax authority no later than the 15th day of the month following a reporting month and pay the relevant amount of tax within the mentioned period.

DISTRIBUTION OF PROFIT

Paragraph 99 has been added to Article 309 of the GTC, according to which distribution of dividend by commercial bank, credit union, insurance company, the MFI and pawnshop from the profit belonging to a period from 1 January 2017 till 1 January 2019, should not be considered as distribution of profit and therefore is not considered as a taxable object for Profit tax purposes.

On the other hand, distribution of dividends to these legal entities should be considered as distribution of profit and therefore is considered as a taxable object for Profit tax purposes.

The law came into the force on 1 January 2017 year.

DISTRIBUTION OF PROFIT

By the Law of the President of Georgia (N196- , 22.12.2016) an amendment has been made to the Tax Code of Georgia. Paragraph 101 has been added to the article of transitional provisions according to which the amount of co-financing received before 1 January 2017 from Enterprise Development Agency – a public law legal person under the system of the Ministry of Economy and Sustainable Development, in terms of the state program "Produce in Georgia" within micro and small businesses according to Decree №365 (30.05.2014) of the Government of Georgia, shall not be included in the gross income of a person.

The Law shall apply to the legal relations arisen from 1 January 2015.

The law came into force on 29 December 2016.

AMENDMENT TO THE DECREE

MANDATORY AFFIXING OF NON-EXCISE STAMPS

By Decree N311 (12.12.2016) of the Minister of Finance of Georgia, an amendment has been made to Decree N996 (31.12.2010) "Tax Administration" of the Minister of Finance of Georgia.

By the regulations in force prior to the Amendment, a selected person would be reimbursed the amount of non-excisable goods' mandatory affixing at par value by the Revenue Service, under the agreement made with the selected person. A

According to the Amendment the mentioned period has been increased up to 1 January 2017.

The Amendment came into force on 12 December 2016.

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