



## Amendment to the order

**Contents** Amendment into the Tax Code of Georgia stipulated by the Georgian law from 5 April 2023

On 18 April 2023, Georgian law (05.04.2023) was published, stipulating amendments to the Tax Code of Georgia (Hereinafter "GTC"). These amendments are effective from 19 April 2023 and apply to the operations carried out from that date on.

The amendment affected almost all taxes and general and administrative issues. In particular:

### Period of limitation

New subparagraphs "d-f" was added to part 10 of the Article 4 of GTC, determining the cases of suspension of the 3-year limitation period for submitting an individual administrative-legal act.

According to the amendment, the statute of limitation for the use of the measure provided for ensuring the payment of tax debts is suspended during the period of the agreement on the postponement of tax debt payments or the tax agreement act. This term is suspended also in case of cancellation of tax debt payment assurance measures by the decision of the Minister of Finance of Georgia or the Head of the Revenue Service. Part 11 of the same article was also amended to state that except for the period of enforcement of the decision by the court/dispute review body, the statute of limitations stipulated by the tax legislation will not also apply to the measures taken against the Straw man.

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### International company

Amendment to the article 23, part 3 of the GTC states that the implementation of activities by an International Company, that are not defined by the resolution of the Government of Georgia, leads to the cancellation of the status of an international company not from the date of granting this status, as it was determined before the amendment, but from 1 January of the year when this activity commenced.



## Public dissemination of documents

The amendment also affected part 10 of the article 44 of GTC, according to which the rule of public dissemination of the documents to the enterprise/organization by a tax/dispute resolution authority or National Bureau of Enforcement, was changed. The aforementioned persons will have the right to publish the document, if the taxpayer (except for a natural person) has not reviewed the document sent by the tax authority in electronic form within 30 days after the document was posted on the website of the official authorized user of the Revenue Service. In relation to the taxpayer natural person, the rule existing before the amendment, remains effective, that was common to natural and legal persons. According to this rule, the document will be considered as publicly disseminated if the document has been sent/presented to a person at least twice in written form, but could not be delivered to the addressee, and also if the person is not an authorised user of the Revenue Service official website or the addressee has not reviewed the document within 30 days after the document was posted on an authorised user's page.

## Tax notice

The amendment affected the article 64 of GTC, which determines the tax notice and the rule of its submission. According to the amendment, part 3 of the mentioned article was canceled, according to which only one tax notice should be presented to a person based on specific grounds for presentation. In accordance with the cancellation of the mentioned section, the tax authority will be able to separate the amounts charged based on the results of the tax audit and issue several tax notices, depending on the cases the taxpayer agrees or disagrees with the charge, that ensures the reduction of disputed cases and simplification of tax administration.

## Determining an object of taxation and tax liability in certain cases

The important changes were made into the article 73 of GTC, that regulates the determining an object of taxation and tax liability in certain cases. In particular, part 8 of the mentioned article was changed, that gave the right to the Tax Authorities using the market price when the value of a barter transaction was understated. According to the amendment, it was determined that the Minister of Finance of Georgia will define the conditions and rules for using the market price.



As a result of the amendment, new subparagraph "c" was added to part 9 of the Article 73 of GTC, according to which, for the purpose of prevention of VAT evasion, the tax authority is given the right to consider any several persons based in the territory of Georgia as one taxable person (regardless of their formal/legal independence), if the main decisions related to their activity/management are made by the same person and their place of activity, form and content are identical. The manner of using this right shall be determined by the Minister of Finance of Georgia.

## The rule of using income tax relief

New edition Part 5 of the Article 82 of GTC states that the Minister of Finance of Georgia will establish the rules for applying the tax relieves (for example, for veterans, disabled people, single parents, etc.) to the income received from the source of payment according to the tax year. Accordingly, the employee will no longer have the obligation to submit to the employer the notice issued by the tax authority about the usage of the tax relief.

## The status of a small business

The amendment affected the article 89 of GTC, that refers to the granting of small business status. According to the amendment, if a person applies to the tax authority to revoke the status of small business, the status will be considered revoked from the first day of the following month of the month of application. According to the previous version of GTC, based on the taxpayer's application the status of a small business was subject to revocation from the beginning of the following calendar year.

## Registration as a VAT taxpayer

Also, according to the amendment, a new part 7<sup>1</sup> was added to the article 165 of GTC, that refers to the registration as a VAT taxpayer, according to which, when determining the obligation to mandatory registration as a VAT payer for a person with the status of a flat taxpayer, the income earned from the activities subject to a flat tax shall not be taken into account.

## Exemption from VAT and excise

Amendments were made to the articles 173 (VAT exemption of the import of goods) and 194 (rules governing excise tax exemption) of the Tax Code. In particular, before the amendment, the import of returned goods defined by the Article 107 of the Customs Code of Georgia (previously exported and then imported in the same condition within 3 years) was exempted from VAT and excise tax if these goods were exempted from import duty. According to the amendment, it was determined that such type of goods will be exempted from VAT and excise tax even if they meet the conditions defined by the Customs Code for exemption from import duty, regardless of whether they are taxed by import duty or not.

According to the amendment made into the articles 173 and 194 of GTC additionally were exempted the import of free of charge repaired goods placed under the outward processing procedure, (due to contractual, warranty obligation or manufacturing defect) if the goods meet the conditions for exemption from import duty, regardless of whether they are taxed by import duty or not.

## Excise tax rates

The amendment affected the article 188 of GTC, that establishes excise tax rates. The excise tax rate on some goods has been changed, for example, it has been increased from 0.2 GEL to 1 GEL for every 1 ml of liquids used for electronic cigarettes.

## Tax offence

Also, as a result of the changes, another type of tax offence was determined - failure to submit information about hired persons in the register of hired persons (Article 288<sup>5</sup>), that provides the measure of liability for entering incorrect/incomplete information in the register of hired persons in the amount of 200 GEL for each hired person. We would like to remind you that before the amendment, the other fine (100 GEL) envisaged under the article 291 of GTC was used for the mentioned offense, that was applied once to all detected mistakes.

## Using a warning instead of a monetary sanction

Amendment was made to part 7 of the article 270, according to which the possibility of using a warning instead of a monetary sanction for a tax offence is increased. In particular, the facts of the offense provided by the Article 273 (violation of the procedure for registration as a taxpayer) and the offenses provided by the new Article 288<sup>5</sup> (failure to submit information about hired persons in the register of hired persons) of GTC are added to the list. A written warning may be used instead of a monetary sanction if the offense is committed for the first time.

## Transportation, sale and non-accounting of goods without documents

Amendment was made to the article 286, that refers to the transportation, sale and non-accounting of goods without documents. In particular, new sub-paragraphs were added to part 5, on the basis of which, transportation/delivery of timber with an ordinary waybill will be considered as transportation/delivery without a waybill, that shall entail the imposition of a fine on a person in the amount of 500 or 10,000 GEL and, at the same time, confiscation of the goods.

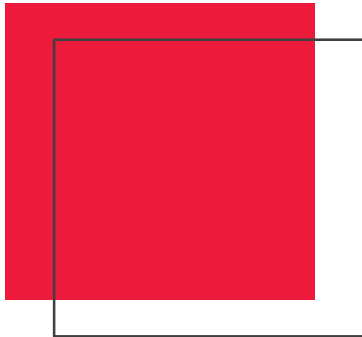
## The wound up company

According to the amendment, a new part 56 was added to the Article 8 of GTC, that defines the terms and concepts used in this Code, according to which the meaning of a wound up company was clarified in order to bring it into compliance with the Law of Georgia On Entrepreneurs that became effective from 1 January 2022. A wound up company is an entity (except for a branch established by an individual who is an individual entrepreneur) in respect of whom, in accordance with the Law of Georgia On Entrepreneurs, the commencement of the winding-up has been registered (whose liquidation is in process).

According to the Law of Georgia on Entrepreneurs, the registration of the winding-up of the company leads to the process of liquidation. Winding-up and liquidation of the company are the stages of the termination of the existence of this society, the first of which is winding-up. This leads to changes in the articles of GTC, those previously regulated tax issues related to the liquidation process. The mentioned amendments are of the following types:

The article 55 of GTC (payment of tax liabilities in the case of liquidation of an enterprise/organization) was formed with an updated version. There was a change in the title, in particular, it was determined that this article explains the tax liability in liquidation process, including the case of registration of the winding-up. With the change, it was defined that the liabilities that were previously held by the liquidation commission in this process, are already borne by the enterprise/organization itself.

Part 3 of the Article 153 (filling in the tax returns) and part 10 of the Article 205 (calculation and payment of property tax) of GTC were updated. According to the changes, instead of liquidation Commission, the company in process of winding-up (wound up company) shall notify the tax authority about the winding-up within 5 working days from the start of the registration of the liquidation process, and to submit the profit and property tax returns within the same period. Before the amendment, there was an obligation to submit these returns within 15 calendar days after receiving the decision to liquidate the company.





## Taxation of the sale of an asset by a natural person

With this amendment, an important change was also made to the Articles 135 and 153 of GTC, that came into the force from 19 April 2023 and is valid for the operations carried out from 1 January 2024. In particular, the new parts were added to the mentioned articles, according to which, instead of the calendar year, the calendar month was defined as the period of income tax for the surplus gained from the sale of the property/asset by an individual within the framework of non-entrepreneurial activities. Accordingly, the mentioned natural person is obliged to submit the income tax return no later than the 15<sup>th</sup> day of the month following the accounting month.

## Amendment to the law

### Amendments to the Customs Code of Georgia

On 18 April 2023, Georgian law was published on Amendments to the Customs Code of Georgia, that is effective from 19 April 2023. The change affected many articles of the Customs Code of Georgia, starting from the definition of terms, ending with the issues of responsibility related to the customs obligation and evasion from it.

## AUTHOR'S COLUMN

This publication covers important new tax changes that business should take into consideration for their daily operations and governance.

This issue provides information on amendments into the Tax Code of Georgia stipulated by the Georgian law from 5 April 2023.

Please contact BDO to discuss these matters in the context of your particular circumstances.

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