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### Surplus income received by an individual from the sale of an apartment

Order №412 of the Minister of Finance of Georgia was published on 7 November 2023, which amended Order №996 "On Tax Administration" of the Minister of Finance of Georgia dated 31 December 2010.

The amendment affected Article 111<sup>2</sup> of the mentioned order, which regulates the procedure for producing the register of persons renting out residential space and the rules for using tax relief by persons renting out residential space to legal entities. The first paragraph of the mentioned article has been changed.

As a result of the amendment, it was clarified that the residential area also means the apartment (house) under construction.

The new "Example 1" was added to the Article 33, paragraph 7, by the same change of the mentioned order. According to the new example, it was determined that if the apartment sold by a natural person is an object under construction at the moment of sale and the corresponding multi-apartment residential building is not put into exploitation, nevertheless, it is considered that the sale of a residential apartment by an individual has taken place, since a construction permit for a multi-apartment house has been issued in connection with it and at the moment of sale of the apartment, the buyer is actually given all the rights necessary for the intended use of the apartment, which will entitle him to actual possession, use and disposal.

The amendment came into force on 8 November 2023.



# Amendment to the order

## A short text message about the stages of the review of a complaint submitted by a person

Order №413 of the Minister of Finance of Georgia was published on 7 November 2023, which amended Order №996 of the Minister of Finance of Georgia "On Tax Administration" dated 31 December 2010.

The amendment referred to the Article 13 of the mentioned order, which deals with electronic complaints. Sub-paragraph 3 of the mentioned article was formed with an updated edition. Before the amendment, the person was provided with information about the review stages and results of the complaint submitted by her/him in the form of a short text message, which did not release the dispute review body from the obligation to additionally notify the complainant in writing about the decision made regarding the complaint.

The dispute review body will no longer have this obligation, since the new edition determined that a person (except for a non-resident natural person) will be provided with information about the stages of consideration of the complaint submitted by him only in the form of a short text message.

**The amendment came into force on 7 December 2023.**

## The issue of VAT taxation during the exchange (barter) transaction before the delivery of the goods/services when the payment of compensation takes place

Order №446 of the Minister of Finance of Georgia was published on 29 November 2023, which amended Order №996 of the Minister of Finance of Georgia "On Tax Administration" dated 31 December 2010.

As you are aware, according to the second part of Article 163 of the Tax Code of Georgia, if the amount is fully or partially reimbursed before the delivery of goods/services, the payment of VAT corresponding to the reimbursed amount is made according to the reporting period of the payment. On the other hand, Article 48<sup>1</sup> of the mentioned order defines in more detail the issue of VAT taxation of compensation before the supply of goods/services.

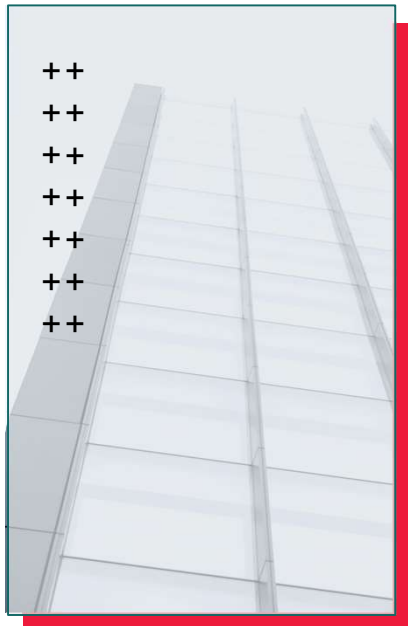
As a result of the amendment, a new paragraph 5 was added to the Article 48<sup>1</sup> of the mentioned order. According to the new paragraph, it was determined that the rules and conditions provided for in this article also apply to exchange (barter) operations, both in cash and in the form of goods/services and shall be subject to VAT taxation before the goods/services are delivered.

As a result, the first and second paragraphs of Article 48<sup>2</sup> of the mentioned order are canceled, according to which, before the amendment, the above-mentioned rules and conditions were not used in the case of goods/services exchange (barter) operation, and VAT taxation of this operation was carried out at the moment of delivery of goods/services. Part 2 of the Article 163 of the Tax Code of Georgia applied to goods/services exchange (barter) operations only in the cases of partial reimbursement of the amount before the delivery of goods/services within the mentioned operations, in the part of the reimbursed amount.

**The changes are effective from 1 January 2024 and will not apply to contracts concluded before that date.**

# Amendment to the order

The procedure for determining, canceling and recording the appropriate category of the size for the taxpayer



On 1 November 2023, the order №26626 of the head of the Revenue Service was published on the approval of the internal instruction "On the determination, cancellation and registration of the appropriate category of the amount for the taxpayer". As a result, the similar instruction approved on 11 July 2023 by the order of the head of the Revenue Service №16734 was declared invalid.

As you are aware, the determination of the size category means the tax authority placing the taxpayer in the appropriate size category for a specific period. According to Article 6<sup>1</sup> of Order №996 of the Minister of Finance of Georgia, the tax authority shall define one of the following 3 categories for the taxpayer:

- Large
- Medium
- Small

As a result of the amendment, only the limits set for the category of large payers has been changed. In particular, the minimum threshold set for all criteria was increased and it was determined that a large payer is a person whose VAT turnover declared according to the due dates of the 12 calendar months preceding the month of determining the relevant category, in total, is equal to or greater than 100,000,000 GEL, instead of 80,000,000 GEL. In addition to this, other criteria for determining a large payer have also been changed.

The amendment came into force on 30 October 2023.

## Amendment to the law

On 20 November 2023, Law of Georgia 3608-XIIIms-Xmp on Amendments to the Tax Code of Georgia was published. The amendment was made in Article 154 of the Tax Code, which refers to the method of withholding tax at the source of payment. In particular, a new subsection "Q" was added to the first part of the mentioned article, according to which the LPL Pension Agency was defined as a tax agent, in accordance with the Law of Georgia "On Accumulated Pension" to an employee/natural person in case of transfer/payment of pension assets counted in his individual pension account, in particular, in that part what is not called a pension and is carried out by the scheme participant before the established period.

**The amendment came into force on 21 November 2023.**

### Changing the deadline for making pension contributions in the funded pension scheme

On 20 November 2023, the Law of Georgia "On Accumulated Pension" was published regarding the amendment of the law of Georgia. Article 3 of the mentioned law, which describes the accumulated pension scheme, underwent a significant change. In particular: in section 6, before the amendment, the obligation of the employer to make a pension contribution in his own name and expense, as well as in the name and expense of the employee, was defined when paying the salary to the employee. As a result of the amendment, a reasonable period for making the pension contribution was determined - no later than 5 (five) working days after payment of the salary.

**The amendment came into force on 21 November 2023.**

## 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 to the order on administration of taxes as well as other changes to the Tax Code of Georgia by the Law of Georgia from 20 November 2023.

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

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