

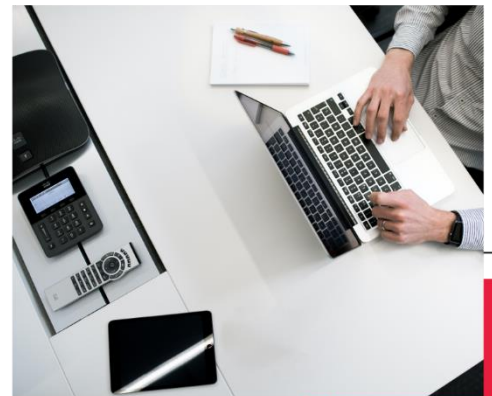


Amendments to the law

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On 27 December 2022, Georgian law was published that made an amendment to the Tax Code of Georgia (Hereinafter “GTC”). It came into force from 1 January 2023. The amendments refer the following issues:



Determining the rule of taxation of the financial sector with corporate income tax

The changes first of all affected the banking and credit sector. Before the amendment, the Tax Code of Georgia determined that banking institutions, credit unions, microfinance organizations and loan providers would be taxed under the new (Estonian) corporate income tax (CIT) regime from 1 January 2023. The amendment stipulated that the time schedule will no longer be established and in the future these entities will be taxed again according to the old CIT regime, namely according to the difference between the gross income gained during a calendar year and the deductions according to GTC (Article 97, Paragraph 12).

Also, a new section 4 was added to the Article 98 of GTC determining the CIT rate, according to which the taxable profit of a banking institution, credit union, microfinance organization and loan provider shall be taxed at the rate of 20%.

Although, taxation will be done according to the so-called old regime of CIT, the method of recognition of income and expenses determined by the GTC for the financial sector has been changed. In particular, the new section 5 has been added to the article 142 of GTC, that defines the moment of earning of income under the accrual method. According to this amendment from 1 January 2023, banking institutions, credit unions and microfinance organizations shall recognize interest income accrued on loans in accordance with International Financial Reporting Standards (IFRS). As for the deduction of allocations to reserve funds, according to the updated Article 109 of the GTC, from 1 January 2023, the mentioned persons will deduct the reserves for possible loan losses from the gross income according to the International Financial Reporting Standards (IFRS), instead of the rule established by the National Bank of Georgia.

A note has been added to the article 109 of the GTC that determines the meaning of a loan for the purpose of this Article. In particular, loan is credit (loan), overdraft, letter of credit, line of credit, guarantee and/or debt securities, factoring, as well as received/receivable from these instruments (including received/receivable in the form of discount, commission and/or interest) of any kind pre-announced (established) income.

In addition, an important change was made into the article 130 of GTC, which determines taxation of dividends at the source. According to the amendment, paragraph 8 was added to the mentioned article, according to which, dividends paid by the banking institutions, credit unions, microfinance organizations and loan providers from the profits of 2023 and subsequent periods will not be taxed at source at the rate of 5% of the amount payable and the dividend in this way shall not be included in gross income by the person earning the dividends.

Sections 94¹, 95¹ and 95² were added to the article 309 (transitional provisions). Under the amendment, insurance organizations shall be subject to CIT according to the new Estonian model from 1 January 2024, before this date taxable amount and deductible costs are determined as follows:

- Until 1 January 2024, CIT base for insurance organizations, shall be the difference between the gross income gained during a calendar year and the deductions under this Code
- Until 1 January 2024, a legal person engaged in a licensed insurance business may deduct from the gross income of a reporting year "insurance/incurred losses, net" of the same reporting period, calculated in the manner prescribed by the National Bank of Georgia, except for the income from recourse and from salvaged property.



Extending the period of validity of the tax relief established for agriculture

According to the amendment made in the Tax Code, the period of validity of tax relief established for agriculture, was extended from 1 January 2023 until 1 January 2026. We remind you of the privileges established for the mentioned area, which according to the change will be effective until 1 January 2026:

- According to the sub-paragraph "k", of the first paragraph of the Article 82, of the GTC, taxable income earned from the primary supply of agricultural products produced in Georgia by a natural person engaged in agricultural production will be exemption from the income tax if the gross income earned by the natural person from such supply during the calendar year does not exceed GEL200,000

- According to the sub-paragraph "k", of the first paragraph of the Article 82, of the GTC, taxable income earned from the primary supply of agricultural products produced in Georgia by a natural person engaged in agricultural production will be exemption from the income tax if the gross income earned by the natural person from such supply during the calendar year does not exceed GEL200,000
- According to the sub-paragraph "z1" of the first paragraph of Article 82 of the GTC, salary paid by a person engaged in agricultural production within the scope of that activity will be exempt from the income tax, if the employer's gross income received from that activity does not exceed GEL200,000
- According to the sub-paragraph "f", of the first paragraph of Article 99, of the GTC, The following shall be exempt from CIT: profit earned by an agricultural cooperative from a primary supply of agricultural products made in Georgia before their industrial processing (changing their commodity code) or distribution of profit, and expenses incurred/disbursements made within the scope of the same activity that are provided for in Article 97(1)(b-d) of this Code, in particular, costs incurred or other payments made by a resident enterprise that is not related to economic activity, also free delivery of goods/services and/or transfer of funds and representation expenses paid in excess of a limited amount determined under this Code by a resident enterprise. According to the sub-paragraph "g", of the paragraph 4, of Article 100, of the GTC, the following shall not be included into the gross income: supply of agricultural produce made in Georgia as a result of agricultural activity between an agricultural cooperative and its members (shareholders) and/or provision of services related to such activity
- According to the paragraph 4¹, of Article 130 of the GTC dividends received by a member of an agricultural cooperative from the cooperative (except for the dividends received from the profit earned from the activities provided for by Article 6(2) of the Law of Georgia on the Agricultural Cooperative) shall not be taxed at source and shall not be included in the gross income by a person receiving the dividends
- According to the sub-paragraph "ff1", of the first paragraph of Article 206 of the GTC, the following shall be property tax exempt: property (except land) owned by an agricultural cooperative, used in agricultural activity and movable property leased to it for the same activity.



Extending of the period until 2026 for other important issues



According to the above amendment made in the Tax Code, the validity period of the other legislative norms, like benefits for agriculture, has been extended to 1 January 2026. For example, validity period for exemption from income tax of the income earned as an interest, which is arisen from the income received by a resident legal person from the sale of the loan securities issued via a public offering in Georgia and allowed for trading on an organized market recognized by the National Bank of Georgia.



Transportation and sale of goods without the documents and non-recording of goods

On 13 December 2022 Georgian law on upcoming amendments to the Tax Code was published. Amendment was made to the article 286, which determines the amount of tax offence and relevant sanction set upon transportation and sale of goods without documents and non-recording of goods. Due to the amendment, new parts have been added to this article, which refer to liability measures and associated definitions provided for transporting referential priced pharmaceutical products for entrepreneurial activity without a waybill, the failure to issue a waybill at the request of the buyer or refusing to accept a waybill when purchasing mentioned goods. specifically:



Mentioned facts shall entail the imposition of a fine on a person in the amount of GEL1,000 whereas repeatedly committing the act shall entail the imposition of a fine on a person in the amount of GEL15,000. In case of committing the offence thrice and each of the following time, the amount of fine shall be GEL30,000.

The amendment came into force from 15 March 2023.



Automatic exchange of financial account information

On 15 December 2022 Georgian Law on upcoming amendments to the Tax Code was published. Specifically, new articles 70² and 279² were added to Tax Code. Article 70² determines the liabilities provided by the agreement of multilateral competent authority on "Automatic Exchange of Financial Account Information", negotiated within convention (dated 25 January 1988) of **Mutual Administrative Assistance in Tax Matters** or by the agreement between Georgia and relevant jurisdiction about the Automatic Exchange of Financial Account Information.

Due to the amendment, Georgian financial institutions will be obliged to maintain relevant procedures established by the Common Reporting Standard (CRS) and inform Revenue Service about financial statements. Revenue Service will be entitled to provide competent authorities with the information received from financial institutions and conduct the revision and control procedures of fulfilment of liabilities which are assigned to financial institutions by the Common Reporting Standard.

According to the amendment, from 1 January 2023 financial institutions will be obliged to maintain relevant procedures established by The Common Reporting Standards and from 1 January 2024 annually, no later than 30 June to provide the Revenue Service the information according to the rules established by the Minister of Finance.

By the new Article 279², sanction measures have been established, which will be held on financial institution if it fail to fulfill the liabilities provided for agreement of "automatic exchange of information", specifically:

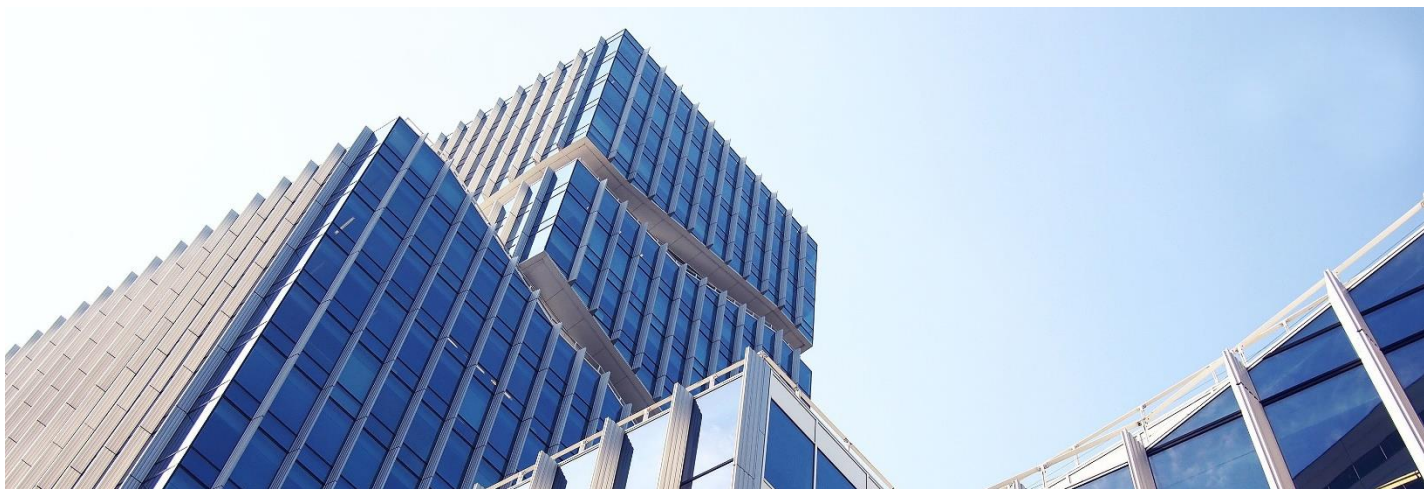
- ❗ Violation of the time limit to file this information to tax authority, shall entail the imposition of a fine one a person in the amount of GEL3,000 (total amount of fines should not exceed GEL100,000 for the whole period of delay)
- ❗ The failure to submit the requested additional information to tax authority within the time limit fixed by the tax legislation, shall entail the imposition of a fine on a person in the amount of GEL10,000. In case of every repeated act, the amount of fine will be GEL20,000
- ❗ If the requested additional information by the tax authority is incomplete/incorrect, it shall entail the imposition of a fine on a person in the amount of GEL10,000 (total amount should not exceed GEL100,000 for each accounting period).

The person shall not be imposed a fine for those offences, if he or she proves that the offence is caused by the circumstance beyond his/her control, it includes instances, where it will be detected that the person does not have the liability to fulfill the information provided by the agreement of automatic exchange of information.

According to the amendment, the rules of accounting provided by the agreement of automatic exchange of information shall be approved by the Minister of Finance of Georgia.

The amendment came into force from January 1, 2023

Exemption from personal income tax



On 27 December 2022 a Georgian Law on upcoming amendments to the Tax Code was published.

Amendment was made to the article 82, which determines types of income of natural persons that shall be exempt from income tax. According to the amendment, subsection "j" of the first part of the mentioned article will be canceled from 1 January 2025. This part determines that the amount paid to a natural person (donor) for nutrition in compensation for blood donation shall be exempt from income tax.



Amendment to the order

Amendment in the rule of the automatic refund of overpaid VAT

On 13 December 2022, the order №405 (12.12.2022) of Minister of Finance of Georgia was published, that made the amendment to the order №42 (14.02.2019) „Regarding the approval of the terms and conditions of the automatic refund of the overpaid amounts based on VAT return”.

According to the amendment, subsection 2 was added to the article 4 of the said order, according to which, in the calculation form of the overpaid VAT amount, the overpaid amount calculated as of 31 December of each year will become subject to cancelation, no later than the first working day of the following year. This means that the taxpayer must reclaim the overpaid VAT amount accumulated as of 31 December no later than the first working day of the following year, otherwise he will no longer be able to eligible to the returns in a simplified way. Although the VAT surplus accumulated from old reporting periods is subject to elimination for automatic refund purposes for the year, it will still be possible to refund it in the standard way, which is determined under the article 63 of the Tax Code of Georgia.

The amendment came into force from 14 December 2022.



The special rule for using tax invoices

On 21 December 2022, the order №3751 (16.02.2022) of the Head of Revenue Service was published that made the amendment in the instruction on “determination of the special rules for the use of the tax invoice, tax document issuance/confirmation and bill of lading, and the use of the electronic tax invoice issued by the taxpayer in individual cases” (the order №3751, 16.02.2022)

According to the amendment, the taxpayer can voluntarily switch to the special rule for using tax invoices also partially:

- When the taxpayer fully switches to the special rule for using tax invoices, the special rule applies to all tax invoices issued by him
- When a taxpayer partially switches to a special rule, the special rule for issuing an invoice will apply only to the tax invoice selected by her/him.

Partial transfer of the taxpayer to the special rule of tax invoice use can be carried out voluntarily, unless the taxpayer has fully been transferred to the special rule of tax invoice use.

In case if within the scope of partial use of the special rule of using the tax invoice, the tax debt recognized by the taxpayer is recorded in the amount of GEL25,000 or more, the taxpayer will fully switch to the special rule of using the tax invoice.

The amendment came into force on 8 December 2022

The rule for submitting the monthly corporate income tax (CIT) return for the reporting period - March

On 6 December 2022, information was published on the official website of the Revenue Service of the Ministry of Finance, according to which it became mandatory to fill in the following graphs in the appendix of "balances of goods and and fixed assets" when submitting the monthly CIT returns for the reporting period of March:

- The balance of the goods at the end of the year
- The balance of the fixed assets at the end of the year.

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Considering the above, from the reporting period of 2023, it will be limited to send CIT return for the month of March without filling in the mentioned graphs.



Public decision

Exemption from VAT with the right of deduction of the supply of agricultural products produced in Georgia



On 1 December 2022 by the head of the Revenue Service the order №387 (28.11.2022) was published, which clarifies the possibility of using the article 172, of GTC, section 4, subsection "i". According to the mentioned article, the supply of agricultural products produced in Georgia, before its industrial processing, i.e. before changing the commodity code, is exempted from VAT with the right of deduction.



For the purposes of exemption from VAT, the public decision discusses the following types of agricultural products:

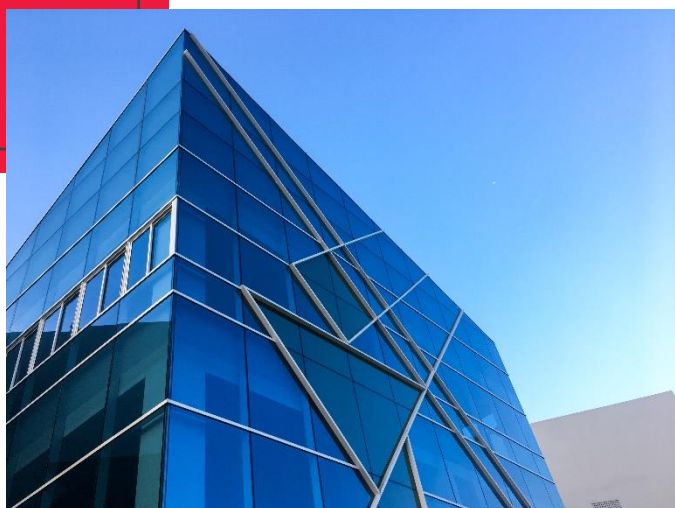
- Supply of slaughtered animal
- Supply of agricultural products obtained as a result of biological transformation of imported biological assets
- Supply of hatched (fresh), live, chilled or frozen fish
- Supply of packaged agricultural products.

⚠ It was determined by this public decision, that the exemption from VAT will apply to the supply of all the above products, except for frozen fish (excluding fish fillets and fish meat under commodity code 0304), because it was considered that this product is obtained as a result of industrial processing, and the commodity code of it has been changed.

The public decision came into force from 14 December 2022.

New informational and methodological hub

On 28 December 2022, the Revenue Service of the Ministry of Finance of Georgia published updates on new information and methodological hub. From 1 January 2023, infohub.rs.ge became available. This is the latest, digital, informational and methodological hub, which still works in testing regime. With its help, information becomes even more accessible to all users, and the process of obtaining information is significantly simplified.



Information/documentation related to both tax and customs issues is placed and constantly updated on the mentioned hub, including legislative acts, international agreements, sub-legislative normative acts, methodological instructions, as well as decisions of tax/customs dispute review bodies in the system of the Ministry of Finance of Georgia and court, etc.

The project to create Infohub was implemented with the support of the United States Agency for International Development (USAID) and the European Bank for Reconstruction and Development (EBRD).

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 multiple year end changes in the Tax Code, also covers amendments to the order and public decision.

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

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