

TAX NEWSLETTER

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AMENDMENTS TO THE LAW

By the Laws of President of Georgia (N3778-ls, 30.11.2018 and N3778-rs, 27.12.2018) the amendments were made into the Georgian Tax Code.

EXEMPTION FROM VAT

Under the amendment made to the article 168, import and/or supply of electric bus (including electric micro bus) indicated in the National Commodity Nomenclature of Foreign Economic Activities Code 8702 90 90 shall be exempt from VAT with the right of deduction.

The amendment came into force from 12 December 2018.

DEFINITIONS OF TERMS

According to the amendment the term "Pawnshop" no longer in use, it is replaced by "Loan issuing entity", which is defined as the Loan issuing entity under the Organic law of Georgia on "National Bank of Georgia".

The amendment came into force from 1 January 2019.

DEDUCTION OF ALLOCATIONS TO RESERVE FUNDS

By the amendment the new section was added to the article of the deduction of allocations to reserve funds. According to this section Microfinance Organization shall deduct loan loss reserves as prescribed by National Bank of Georgia for Microfinance organizations for classifying assets and formation of loan loss reserves.

The amendment came into force from 1 January 2019.

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EXCISE TAX RATES

Amendment was made to excise tax rates.

The rates prescribed for non filter 20 pieces of cigarettes have increased from GEL0.6 to GEL1.7.

Also, excise tax rate for 20 pieces of filter cigarettes shall be calculated as the sum of the excise rate and the 30% of this product retail price for 20 pieces of the goods specified under National Commodity Nomenclature of Foreign Economic Activity code 2403 99 900 01 (capsules and similar products, with tobacco content), and for 20 pieces of goods specified under National Commodity Nomenclature of Foreign Economic Activity code 2403 99 900 02 (tobacco products, without burning process, to be used for obtaining steam) shall be the sum of the excise rate and the 30% of this product retail price. Before the amendment only 10% of this product retail price was participating in the sum.

The amendment came into force from 1 January 2019.

TAX OFFENCE AND RESPONSIBILITY

According to the amendment, section 11 was added to the article on tax offence and responsibility, based on which in case if tax arrears and 50 percent of penalty, imposed by tax authority as a result of tax audit is recognized and fully paid within 30 days from the date of receiving tax notice, the remaining 50 percent of the penalty will be abolished.

Amendment came into force from 1 January 2019.

TAX SANCTION

In case of transporting goods without a waybill, failure to issue a way-bill at the request of the buyer or refusing to accept a waybill when purchasing goods, if the market value of the goods transported or delivered/to be delivered without a waybill does not exceed GEL 10 000 may be used warning instead of the penalty, except when the offense is committed repeatedly.

Amendment came into force from 1 January 2019.

PENALTY INTEREST

Amendment was made to the section of penalty interest, which defines, that accrual of the penalty interest will be terminated after 3 years from the date of arising the obligation.

Amendment came into force from 1 January 2019.

VIOLATION OF THE TIME LIMIT FOR FILING TAX RETURN/TAX CALCULATIONS

Previous edition stipulated that, violation of the time limit determined by the tax legislation of Georgia for filing a tax return/tax calculation with the tax authority shall entail a fine on the violating person in the amount of 5% of the sum to be assessed for payment on the basis of the tax return/tax calculation for each overdue complete/incomplete month. At the same time, total amount of a penalty for the entire overdue period should neither be more than 30% of the amount to be assessed for payment nor less than GEL50.

According to this amendment, penalty amount and the method of calculation has changed as follows: if the expiration period doesn't exceed two months, a person shall be fined in the amount of 5% of the sum to be assessed on the basis of overdue tax return/tax calculation. If expiration period exceeds two months, a person shall be fined in the amount of 10% of the sum to be assessed for payment on the basis of overdue tax return/tax calculation.

Amendment came into force from 1 January 2019.

UNDERSTATING TAXES IN A TAX RETURN/TAX CALCULATION

The amount of penalty also has been reduced by the amendment to the article on understating taxes in a Tax Return/Tax calculation. In this case the penalty stated for understating payable taxes in a Tax Return/Tax calculation by a person that is caused by changing the moment (period) of origination of tax liability is split into three parts:

- ▶ Understating payable taxes in a Tax Return/tax calculation if the amount of understated tax does not exceed 5% of tax amount given in this Return/Calculation shall entail imposing a fine on the person in the amount of 10% of the understated sum of payable taxes.
- ▶ Understating payable taxes in a Tax Return/tax calculation if the amount of understated tax exceeds 5% but does not exceed 20% of tax amount given in this Return/Calculation shall entail imposing a fine on the person in the amount of 25% of the understated sum of payable taxes.

► Understating payable taxes in a Tax Return/tax calculation if the amount of understated tax exceeds 20% of tax amount given in this Return/Calculation shall entail imposing a fine on the person in the amount of 50% of the understated sum of payable taxes.

The amendment also defines that the amount of fine imposed as a result of tax inspection based on this article shall not be more than the total taxes assumed by the inspection.

Amendment came into the force from 1 January 2019.

TRANSITIONAL AND CONCLUSIVE PROVISIONS

Amendments were made to the Article of Transitional Provisions, namely:

► According to its Subparagraph 79 before the amendment, supply of immovable property and delivery by its supplier of construction and installation services related to the property supplied within the period from 1 January 2015 to 1 January 2020 was VAT exempt with the right to deduct if the supplied immovable property was located within the facility specified in a construction permit which was valid on 8 August 2008 or within the facility for which, as of 8 August 2008, the design documentation (architectural design) was agreed upon with an authorized body and the construction permit was issued later on. Herewith, an individual administrative-legal act which would put into operation the facility where the supplied immovable property was located had to be issued by the authorized body before 1 January 2020. By the amendment, the date for

the mentioned exemption was moved from 1 January 2020 to 1 January 2023, together with the date before which an individual administrative-legal act must be issued by the authorized body that is also 1 January 2023.

► In relation with the above-mentioned exemption, the amendment was also made to Subparagraph 81² of Article 309 of the GTC, according to which the following periods of limitation were determined for exempt supply of immovable property between 1 January 2015 and 1 January 2019:

a) Eight years for an exempt taxable transaction conducted within the accounting period from 1 January 2015 to 1 January 2016;

b) Seven years for an exempt taxable transaction conducted within the accounting period from 1 January 2016 to 1 January 2017;

c) Four years for an exempt taxable transaction conducted within the accounting period from 1 January 2017 to 1 January 2018;

d) Three years for an exempt taxable transaction conducted within the accounting period from 1 January 2018 to 1 January 2019; According to the mentioned Subparagraph before the amendment, the periods of limitation for exempt supply of immovable property for periods 01.01.2015-01.01.2016 and 10.10.2016-01.01.2017 was determined by 5 and 4 years, with no periods of limitation for the period from 2017 till 2019.

► According to the amendment made to Subparagraph 87, a benefit received by a natural person after waiver (writing off) of a loan obligation by a commercial bank or a microfinance organization before 1 January 2019 was exempted from income tax and it is no longer necessary to classify such loan obligation as a bad loan according to the rule set by the National Bank of

Georgia as of 1 January 2014.

► According to the amendment to Subparagraph 88¹ of Article 309 of the GTC, a commercial bank and a microfinance organization are allowed to deduct the value of a loan obligation waived to a natural person from the gross income, except when the reserve of possible loss of loan for the respective period had already been deducted from the gross income or the interest and penalty accrued on the loan for respective period had not been included in gross income. By the amendment the above-mentioned restrictions apply not only to a commercial bank but also to a microfinance organization.

Amendment came into the force from 1 January 2019.

AUTHOR'S COLUMN

This publication covers important new 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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