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Public Ruling

Taxation of Income gained from the Supply of an Asset by Personal Income Tax

On May 15, 2026, Public Ruling №143 of the Minister of Finance of Georgia was published regarding Issues Related to the Taxation of Income gained by a Natural Person from the Supply of an Asset.

The public ruling also explains the criteria that must be met for real estate to be considered a residential apartment/house. In addition, it sets out the rules for determining an asset, the two-year ownership period, the moment of supply (transfer), and the surplus income received as a result of the supply of the asset.

It should be emphasized that, for the purpose of determining the income tax rate applicable to the capital gain received from the supply of an asset, it is first necessary to establish the type of property being supplied (whether it is a residential apartment/house or another type of asset), how long it has been owned by the supplier, and whether there is a legal basis for exemption from income tax as provided by law.

Specifically, pursuant to the Public Ruling, immovable property may qualify as a residential apartment/house only where all of the following conditions are satisfied cumulatively:

- The property constitutes a separate and independent unit
- The property is suitable for residential use
- The property is technically equipped with, or is capable of being equipped with, basic engineering and utility infrastructure
- The property does not form a functional part of any other activity.

Furthermore, under the Public Ruling, any supply effected by an individual entrepreneur in the course of entrepreneurial activities (such as development activities, securing mortgage claims, and other business activities) shall not be treated as the disposal/sale of a residential apartment or house for the purposes of Article 81, part 3, and Article 82, part 1, subparagraph “f.a” of GTC.

The Public Ruling provides that premises/units forming part of a hotel infrastructure shall not be regarded as a residential apartment or house. With respect to properties under construction, such properties shall be treated as residential apartments/houses where, at the time of supply, they constitute a residential unit by virtue of their design and intended purpose, and the purchaser is granted all fundamental rights required for the property's use as a dwelling.

Illustrative examples regarding the mentioned cases are also provided in the Public Ruling.

The Public Ruling further provides for the concept of surplus income, which is determined as the difference between the consideration received from the supply of an asset and its acquisition cost. The acquisition cost shall include documented expenditures directly attributable to the acquisition, creation, completion, or enhancement of the asset, to the extent that such expenditures increase the value of the asset. Where an asset has been acquired without consideration, its acquisition cost shall be deemed to be its fair market value as of the date of acquisition.

With respect to the application of the tax exemption, for the purposes of exempting income from the transfer of an asset from personal income taxation, Article 82(4) of the Tax Code provides that the two-year holding period shall be calculated from the date on which the document confirming ownership rights is executed for the purpose of registering title with the competent registration authority. In the case of a self-

constructed residential house, the holding period shall be calculated from the date of its registration with the competent registration authority.

Where immovable property is acquired in consideration for the transfer of a land plot, the acquired property shall be treated as a new asset, and the holding period thereof shall begin on the date ownership rights to such asset are established. For tax purposes, the acquisition cost of the asset shall be equal to the fair market value of the land plot at the time of its transfer.

The Public Ruling further considers situations involving the division and merger of assets. Specifically, in the case of a division of an asset, the holding period shall be calculated from the date of acquisition of the original asset. Conversely, in the case of a merger of assets, the holding period attributable to each constituent asset shall be determined separately and independently.

The amendment became effective as of 16 May 2026

VAT Implications of Certain State-Implemented or State-Supported Transactions

On 15 May 2026, Public Ruling №142 of the Minister of Finance of Georgia was published, addressing issues related to the VAT taxation of certain transactions implemented or supported by the State.

The Public Ruling provides guidance on the conditions for the application of subparagraph “b” of paragraph 4 of Article 158 of the Tax Code and further considers the VAT implications of transactions financed by means of subsidies.

Under Article 158(2) of the Tax Code, the following shall constitute economic activity for VAT purposes:

- Entrepreneurial and non-entrepreneurial activities as defined in Article 2(2) and Article 3(1) and (2) of the Law of Georgia on Entrepreneurs, including artistic, scientific, medical, architectural, legal, arbitral, mediation, notarial, auditing, and consulting activities (including tax advisory services).
- Activities undertaken by persons carrying out supplies of goods and/or services, other than activities of a one-off or non-recurring nature, taking into account paragraph 3 of this article; and
- The exploitation of property for the purpose of obtaining recurring income.

In addition, pursuant to Article 158(4)(b) of the Tax Code, the activities of a state authority or municipal body, or a public law legal entity, shall not be considered economic activity if, in the course of carrying out such activities, it acts as a state authority (exercising powers delegated to it by the State), even where membership fees, charges, fees, or other payments are established for such activities. In this context, state authorities refer to bodies that, in accordance with the legislation of Georgia, exercise legislative, executive, or judicial power, as well as state supervision and control, in accordance with Article 157(g) of the Tax Code.

According to the Public Ruling, the activity of a public entity is not regarded as economic activity only if it performs activities specifically regulated under public law for the relevant public authority and in practice acts as a state body. At the same time, the activities referred to in Article 158(4)(b) of the Tax Code are considered economic activity when carried out by a public entity. Accordingly, if a public entity carries out activities that are in competition with private law entities (i.e., such activities are not an exclusive prerogative of a state authority and may also be carried out by other persons, and exemption from taxation may lead to distortion of competition), then, upon the relevant decision of the Government of Georgia, such activities shall be subject to VAT as activities carried out by an entity engaged in economic activity.

With regard to the VAT taxation of subsidy-financed transactions, it should first be noted that a subsidy, in substance, represents financial support provided by the State or a municipality, the purpose of which is to promote a specific social, economic, public, or strategic interest. As a rule, it does not constitute consideration paid in exchange for the supply of specific goods or the provision of services.

Accordingly, for the purposes of VAT taxation of such transactions, it must be determined whether the subsidy amount constitutes consideration for the supply of goods or provision of services, or whether it is directly linked to such supply or provision. Since, under Article 164(1) of the Tax Code, the taxable amount for VAT purposes is the consideration received or receivable in exchange for the supply of goods or provision of services, excluding VAT, the amount of a subsidy (financial assistance received from the State) is included in the VAT taxable base only if it is directly linked to the price of the goods or services. This is because such a subsidy effectively alters the actual price of the goods or services for the purchaser.

If a subsidy is granted for the general support of an activity (for example, scientific research, environmental projects, employment promotion, and others), including for covering operational costs or supporting the performance of a public function, and it is not related to the supply of specific goods or provision of specific services, does not constitute part of the consideration for a specific supply or service, and accordingly does not affect the price of the goods or services, then the subsidy amount shall not be included in the VAT taxable base.

In connection with the above, the Public Ruling also provides relevant illustrative examples.

The amendment entered into force as of 16 May 2026

With regard to the VAT treatment of exchange (barter) transactions, in respect of the supply of immovable property carried out within the framework of such a transaction

On 19 May 2026, Public Ruling №147 of the Minister of Finance of Georgia was published, introducing amendments to Public Ruling №195 of 7 June 2024 of the Minister of Finance of Georgia, titled “On the VAT taxation of exchange (barter) transactions, in the case of the supply of immovable property within the scope of such transactions.”

It should be noted that, in the case of an exchange (barter) transaction of goods/services, pursuant to Article 164(1) of the Tax Code, the taxable amount for VAT purposes is the consideration received or receivable in exchange for the supply of goods or provision of services, excluding VAT. In a barter transaction, the VAT taxable amount is the consideration actually received or receivable by the taxable person in exchange for the supply of goods or provision of services, which gives rise to an obligation for the parties to determine, for VAT purposes, the value of the subject of the barter (the goods to be supplied or services to be provided) in monetary terms.

The amendment concerns subparagraph “b” of paragraph 2 of Article 1 of the Public Ruling, which defines the amount of the taxable transaction. In particular, it introduces a new case involving a barter transaction with mixed consideration (monetary and non-monetary). In such cases, if, according to the opinion of a competent appraiser/expert, the fair market value of the property received by a person is lower than the transaction price, the agreed transaction price between the parties shall be used for determining the VAT taxable amount, provided that the transaction is concluded under conditions of free competition and the economic independence of the parties, and there are no indications of artificial price adjustment (increase or decrease).

In this regard, the Public Ruling provides a relevant illustrative example.

The amendment entered into force on 20 May 2026

AUTHOR'S COLUMN

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

This publication covers publicly available rulings related to taxation.

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

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