



Amendment to the order

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Determining a person's tax obligations in specific cases

On November 4, 2024, Order №23106 of the Revenue Service was published, which amended Order №22708 (July 8, 2019), of the Head of the Revenue Service, titled "On the Approval of Methodological references for Determining a Person's Tax Obligations in Specific Cases." As a result, the methodological guideline on the taxation of accounts receivable and accounts payable has been revised.

Accounts Receivable

As a result of the amendment, general provisions, transactions, and special rules were determined regarding the following:

- Identification of accounts receivable and/or advance payments made
- Verification of the validity of accounts receivable and/or advance payments
- A reasonable time, after which additional tax obligations may be determined in relation to accounts receivable and/or advance payments
- Documentation to be submitted to the tax authority if relevant information and/or documentation on the transaction is provided by the person before the completion of the tax inspection.

The changes determined that accounts receivable paid by a supplier of goods/services, which are not recorded in the enterprise's cash or bank accounts, are discussed as a salary issued to the enterprise's director (if no other identifiable accountable person exists). Prior to the changes, under the previous wording, such amounts, at the initiative of the tax authority, were initially classified as loans (with or without interest), dividends and/or salaries issued to an accountable person.

Articles 6, 7, and 8 were added to the section of the methodological guideline on "Accounts Receivable," addressing the taxation of advance payments made to suppliers of goods/services and the taxation of unpaid amounts by purchasers of goods/services.

According to Article 6, it was determined that advance payments will be taxed if the audit reveals that the enterprise has not actually received the corresponding goods/services within a reasonable time after the advance payment and it is also not confirmed, that the recipient has returned part or full amount of the advance payment. The advance payment/part of the advance payment made by the taxpayer to the supplier, for which the receipt of the corresponding goods/services is not confirmed at the time of the tax audit appointment, will be classified as salary issued to the enterprise's director (if no other identifiable responsible person exists) at the end of the auditing period and will be subject to appropriate taxation.

According to Article 7, a demand arising from the supply of goods/services recorded by the enterprise will be taxed if a reasonable time has passed since its creation and on the basis of tax audit it is established that the amount has not been paid or has been partially paid, and the fact of the received payment or part of the payment for the claim is not confirmed through cash inventory and/or bank deposit conducted during the tax audit. The demand/part of the demand arising from the taxpayer for the supply of goods/services, for which the fact of payment or the return of the corresponding goods is not confirmed at the time of the scheduled check appointment, will be classified as salary

issued to the enterprise's director (if no other identifiable responsible person exists) at the end of the audit period and will be subject to appropriate taxation.

According to Article 8, a special rule has been determined, which grants the authority to the auditor not to determine additional tax liabilities for accounts receivable if the total amount of reclassified funds, according to this methodological instruction, does not exceed:

- 1,000 GEL for a small category taxpayer
- 10,000 GEL for a medium category taxpayer
- 100,000 GEL for a large category taxpayer.

Accounts payable

As a result of the changes, the general provisions, operations and special rules were defined in the newly added sections of Annex №8 for "Accounts Payable." It should be noted that the addition of Article 3 following the changes, determines the basic principles. In particular, according to the new instruction, 75% of the expense will be considered as compensated if complete evidence for the expense or part of the expense could not be obtained/established or presented during the tax inspection, although the validity and necessity of the expense are not disputed.

According to the changes made in the methodological instructions, the list of documents/information to be submitted by the taxpayer has been expanded in order the payment made in cash to a non-resident supplier (creditor) for imported goods to be fully considered reimbursed. In particular, the following evidence must be submitted within the tax audit:

- The relevant contract signed between the taxpayer and the non-resident supplier
- The invoice and customs declaration confirming the purchase of the goods and their importation into Georgia
- Act of comparison signed and confirmed by the parties involved in the transaction, confirming the full payment of the corresponding debt. Moreover, the act of comparison must be validated by both parties in accordance with the established practice for similar transactions, including notarization, apostille, or other forms accepted in civil-law relationships and/or provided for by the legislation of the non-resident supplier's country
- Acceptance certificate and/or a cash desk outflow order marked by the signature of the accountable person of the non-resident supplier, their identification details, the amount of money issued to them, and the date of payment
- A document confirming the authority of the non-resident supplier's accountable person, certifying that this individual is authorized to receive payment for the goods sold on behalf of the non-resident supplier
- The fact of the non-resident supplier's accountable person crossing the border of Georgia

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 determining a person's tax obligations in specific cases and the procedure for filling out the withholding tax declaration at the source of payment.

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

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- The value of the goods purchased by the taxpayer is credibly (persuasively, reliably) confirmed to be in accordance with market principles.

The methodical guidelines have been supplemented with Article 6, which regulates the full consideration of the debt owed to a non-resident supplier paid in cash, under the condition of compliance with the market principles of income and expenses. According to this article, in the case of insufficient (unconvincing, unreliable) evidence of the cash payment made to a non-resident supplier (creditor) for imported goods, or in the absence of such evidence, the value of the goods based on the corresponding (customs) invoice will be fully considered as paid to the non-resident supplier, provided that all of the following further evidence has been obtained/determined and/or presented within the tax audit:

- The invoice and customs declaration proving the purchase and import of the goods into Georgia
- The taxpayer's written explanation, which is also considered credible (convincing, reliable) by the auditor, stating that the corresponding debt has been fully settled by the taxpayer, thus ruling out the possibility of the goods being received free of charge and/or the debt being forgiven
- The credibility (convincingness, reliability) of the imported goods' acquisition and resale values in accordance with market principles.

As a result of the changes, according to Article 8 added to Annex №8, if, after the tax audit, it is determined that the amount/part of the amount is not refundable, which was classified as not refundable under the same methodical guidelines, it will be considered as paid to the accountable person of the enterprise. If no such person exists, it will be considered as paid to the director, or if the taxpayer is a natural person, it will be treated as paid to that individual and the factual circumstances will be appropriately qualified. At the same time, the auditor is authorized to treat the amount considered dubious (unconvincing, unreliable) as paid if the total amount does not exceed:

- 1,000 GEL for a small category taxpayer
- 10,000 GEL for a medium category taxpayer
- 100,000 GEL for a large category taxpayer.

The amendment came into force from October 30, 2024.

Procedure for filling out the withholding tax declaration at the source of payment

On November 27, 2024, the Order №380 of the Minister of Finance of Georgia was published, which introduced changes to the Order №996 of the Minister of Finance of Georgia, dated December 31, 2010, on "Tax Administration". As a result of the changes, the form for filling out the withholding tax declaration at the source of payment was changed, in particular the forms for completing Part III of the declaration and Annex "A" of the declaration.

The amendment affected Annex "A" of the declaration, which reflects the information on payments made and the taxes withheld during the reporting period. As a result of the change, only pension contributions made by the employer to the individual pension account of the employee, on behalf of and at the expense of the employee, in accordance with Georgian Law on Funded Pension will be reflected in column 8. Prior to the amendment, this column reflected all types of tax benefits established under Article 82 of the Tax Code of Georgia, including the employer's pension contributions made to the employee's individual pension account, on behalf of and at the expense of the employee. Under the updated format, all other tax benefits, except for pension contributions, will be reflected in column 9 of the annex.

The amendment will come into force from December 27, 2024.