



Amendment to the order

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The rule for filling in the appendix "A" of the declaration of tax withheld at the source of payment

On 23 May 2024 the order №166 of the Minister of Finance of Georgia was published, amending the order №996 by the Minister from 31 December 2010 "On Tax Administration".

The amendment has been made in the appendix "A" - the declaration of tax withheld at the source of payment, where the information about disbursements and withheld tax for the reporting month is filled in. The name of column 14 has been changed, and instead of "the amount of income tax subject to reduction" (reducing the amount of income tax on the basis of part 112 of Article 309 of GTC, which was an employer's benefit during the covid pandemic period, not to pay to the budget its payable income tax withheld from the salary of up to 750 GEL to an employee if the salary of the employee received from this employer during one calendar month did not exceed 1,500 GEL), the said column reflects "the amount of tax paid in a foreign country subject to deduction on the basis of Double Taxation Avoidance Treaty".

The amendment was also made to the Article 38 of the mentioned order, regulating the rules for filling out the declaration of tax withheld at the source of payment. In particular, the amendment was made to subparagraph "k" of part 7 of this article and it was determined that the amount of tax paid in a foreign country, subject to deduction on the basis of Double Taxation Avoidance Treaty, is reflected in column 14 of the mentioned appendix, which should not exceed the amount of income tax withheld from the employee's salary. In this column, the corresponding amount is reflected by the tax agent only in the case when the right to withhold tax on the same rate arises both in the contracting state and in the other state, and the amount paid in a foreign country is subject to deduction.

The amendment came into force from 24 May 2024.

Exemption of a legal entity under public law from a fine

On 28 May 2024 the order №11602 of the head of Revenue Service was published that made the amendment to the order №9021 "On approval of the methodological instructions for the implementation of certain activities by the tax/customs authority" issued on 11 April 2022 by the head of Revenue Service.

The amendment has been made in the Appendix №2 of the mentioned order, which refers to the measures to exempt a person from a fine imposed as a result of the violation of the time limit determined by the tax legislation of Georgia (Article 274) and/or conducting activities without registration as a VAT taxpayer (Article 282). These measures are provided by the tax authority/dispute resolution body or the court which are entitled to exempt a faithful taxpayer from the sanction envisaged by this code, if the tax offence was caused by the taxpayer's mistake/lack of knowledge (Article 269).

As a result of the amendment, it was determined that a Legal Entity under Public Law (LEPL) is exempt from the above-mentioned fines, if the tax offence is caused by the taxpayer's mistake/lack of knowledge and appeal is submitted accordingly, regardless of compliance with certain conditions provided for by the first and third paragraphs of the annex of the same order.

The amendment came into force from 22 May 2024.

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Basis for assigning the status of an unqualified VAT payer

On 31 May 2024 the order №10911 was issued by the Minister of finance of Georgia, that made the amendment to the order №3751 issued by the head of Revenue Service on February 16 2022 approving the instruction „On limiting the taxpayer's right to issue/confirm a tax invoice, tax documents and waybills in certain cases and determining a special rule for the use of an electronic tax invoice issued by the taxpayer”.

The amendment has been made in the Article 2 of the mentioned order, that determines assigning and cancellation the status of an unqualified VAT payer. As a result of the amendment, sub-paragraph "b" of the first part of the mentioned article was formed with a new edition. As is known, one of the ground for assigning the status of an unqualified VAT payer is the case when a person with the status of a qualified VAT payer has not submitted any tax return/calculation (except for property tax return/calculation) for any consecutive 12 calendar months or submitted and on its basisthe amount of tax to be calculated does not exceed one GEL. As a result of the amendment, it was additionally determined that along with the above-mentioned conditions, one more must be met, namely, 6 calendar months must have passed from the date of the last assignment by an authorized person of the status of a qualified VAT payer.

The amendment came into force from 3 May 2024.

Services related to an immovable thing

On 28 May 2024 the order №169 of the Minister of Finance of Georgia was published, that amended the order №996 of the Minister of Finance of Georgia dated 31 December 2010 "On Tax Administration".

As a result of the amendment, the title of chapter XVI³ of the mentioned order was rendered in a revised edition, in particular, it became known as "the place of implementation of the taxable operation" instead of "the place of implementation of the taxable operation in certain cases". The mentioned chapter defines the place of performance of the taxable operation only for VAT purposes.

Additionally, a new article 66⁶ has been added to the said order under the title "Services Related to an Immovable thing", that is in accordance with the paragraph 4 of the Article 162¹ of GTC. According to this part of GTC, the place of provision of services related to an immovable thing shall be considered the place where the immovable thing is located.

By the first part it was clarified that services related to immovable thing include only those types of services that are directly connected to the immovable thing. It also explains what types of services are considered directly related to immovable thing:

- If the service is derived from an immovable thing and that property makes up a constituent element of the service and is central to, and essential for, the services supplied. Moreover, the provision of such service is impossible without the immovable thing

- If the service is provided to, or directed towards, an immovable thing, having as their object the legal or physical alteration of the thing.

The second part of this article lists specific types of services that are considered directly related to the immovable thing, such as:

- Service for the preparation of construction works, including the drafting of a project for a building or part of a building intended for a specific plot of land, regardless of whether the building is built or not
- Service for supervision or protection of the immovable thing, including coordination of construction works or exercising control at the construction site
- Leasing, renting or other similar transfer of immovable thing
- And other.

Part 3 of this article defines a list of services that are not included in the services directly related to immovable thing, such as:

- Drafting a project for a building or part of a building if it is not intended for a specific plot of land
- Storage of goods if a specified part of the immovable thing (storehouse, warehouse) is not intended for the exclusive usage of the customer
- Advertising services, even if they include the use of immovable thing
- And other.

According to the parts 4 and 5 of this article, it is determined that if equipment is transferred in the customer's disposal for performing work on immovable thing, such an operation will be considered as service related to immovable thing only if the supplier takes responsibility to perform the work. The supplier who provides equipment and the necessary employee for its operation to the customer for the purpose of performing work is considered to take responsibility for performing this work. This presumption is applicable until the opposite is proven by the specific facts or legal circumstances.

According to part 6 of this article, it is also determined that the place of provision of telecommunication, broadcasting or electronic services provided by a taxpayer acting on his own behalf in a hotel or sectors with a similar function (e.g. rest camps, campsites), along with accommodation service, is considered a place, where the specific immovable thing is located.

The amendment came into force from 29 May 2024.

Methodical Reference

[Taxation of income received from transport services in international carriage between Georgia and foreign countries at the source of payment](#)

On 27 May 2024, the order of the head of the revenue service №11601 was published, regarding the approval of the methodical reference on taxation at the source of payment of income received from transportation services in international carriage between Georgia and foreign countries.

The mentioned methodical reference regulates the rules and conditions for considering the income received from transport services in international carriage as income received from the source of Georgia, taxation of such income at the source of payment, and the use of tax relief.

The methodical Reference came into force from 22 May 2024.

Procedural manual

Issuance of the Interim Tax Audit Act

On 27 May 2024 the order №9732 of the head of Revenue Service was published approving the procedural manual for issuing of the Interim Tax Audit Act.

Mentioned procedural manual regulates the procedure for issuing the interim tax audit act (hereinafter “the interim act”), in case there are appropriate grounds. The purpose of this manual is to facilitate the timely recognition of the amounts to accrual (of relevant episodes) by tax audit.

The basis for issuing an interim act within the framework of a tax audit can be determined by different specifics, namely:

The taxpayer’s submission of consent on issues identified as a result of a tax audit, for which she/he has no complaints, and accordingly, does not make it and the tax claim issues on its basis disputable;
Identification of issues within the framework of the tax audit, that in the event of an appeal the prospect of satisfaction in the Ministry of Finance system, due to direct evidence obtained by the auditor, will be low;
The approaching of the statute of limitations for a part of the total period to be checked;
Detection of other specific issues within the framework of tax audit.

More than one interim act may be issued within one tax audit.

The order came into force from 1 May 2024.

Amendment to the Law

On 4 June 2024, Law of Georgia 4197-XIVms-Xmp on Amendments to the Tax Code of Georgia (hereinafter “GTC”) was published. The amendment affected Article 309 (transitional provisions) of GTC.

Writing off tax debt

A new sub-paragraph "d" was added to Part 37 of the Transitional Provisions, according to which regardless of the requirements of the article 252 of GTC (General rule for writing off tax debt), the recognized tax debt of a natural person arising before 1 January 2021 and existing at the time of writing off (payable amount of tax and fine) and penalty interest accrued on it is subject to write-off according to the rules established by the Minister of Finance of Georgia.

Tax exemption for transactions related to foreign enterprises registered in the countries with preferential taxation

A new part 146 has also been added to the article - Transitional Provisions, according to which in case of transfer of ownership of all assets (including shares) of a foreign enterprises registered in a country with preferential taxation to a Georgian enterprises before 1 January 2028:

- The income/benefit received by this foreign enterprise and its individual partner within the framework of the said operation, which for the purposes of this code is considered as income received from a source in Georgia, is exempted from the profit/income tax

- Bringing/importing assets/goods into Georgia is exempted from import duty. The rules and conditions for the use of this subsection shall be determined by the Minister of Finance of Georgia
- The Georgian enterprise is exempt from property tax until 1 January 2030 in connection with the asset received as part of this transaction. within the scope of this operation is exempted from property tax, until 1 January 2030.

It is used if:

- The same individual (group of individuals) owns 100 percent of shares in a foreign enterprise registered in a country with preferential taxation and a Georgian enterprise
- There is a transfer of the asset that belongs to a foreign enterprise registered in a country with preferential taxation as of the date of entry into force of this section.

It was further determined that the value of the asset for the receiving party of the asset in this transaction is equal to its value for the delivering party at the time of transferring of this asset.

The amendment came into force from 5 June 2024.

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 Tax Administration, amendments to the order #3751, methodical reference, procedural manual and other amendments.

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