



## Georgian Legal News

### Refer to the Law

#### **New law on Electronic Documents and Electronic Trust Services**

On 10 May 2017 new law of Georgia on “Electronic Documents and Electronic Trust Services” entered into force, which was officially adopted and approved by the parliament of Georgia on 21 April 2017. Objective of the law is to determine the legal mechanisms for using electronic signature and other trust services and support the development of electronic business and support other directions through use thereof.

Pursuant to the law, both natural and legal persons of private law are entitled to use material document and/or personal signature, electronic documents and/or electronic signature according to their choice.

The law regulates procedure for using qualified electronic seal by legal persons by which any legal person of private law will be able to provide services on distance on the basis of identification of a customer.

One of the most significant novelties of the law is legal regulation of qualified recording of time, which enables accurate verification of existence of an electronic document or a signature made on electronic document at a specific moment in time.





### **Possible amendments to Civil Code of Georgia**

The Parliament of Georgia is reviewing amendments to Civil Code of Georgia, according where to a chapter on health insurance will be added to the Civil Code. According to the proposed redaction of health insurance will cover expenses related to health deterioration, damage and other services. Such wide scope provides protection of right of a user to avail oneself of opportunities set forth by legislation without any limitations when exercising right to health protection.

Amendments will enshrine possibility of exercising right to subrogation by an insurer in health insurance cases.

The purpose of amendments is to strictly regulate scope of provisions concerning health insurance. It precludes wrong and bad practice of insurance companies to refuse compensation of damages by using analogy of law with respect to property damage clauses.

### **Possible amendments to Tax Code of Georgia**

The Parliament of Georgia is reviewing possible amendments to Tax Code of Georgia, whereby:

- Paragraph 12 is added to Article 4 of Tax Code, according to which an extension of time limit in cases of transferring loss shall apply only to those tax obligations, the amount whereof is affected by such transfer of loss.
- Paragraph 13 is also added to Article 4, which provides that time limit for submitting a tax request to a taxpayer will not be considered expired should a relevant tax request be placed on the taxpayer's authorized user page prior to expiration of time limit.
- Amendment is made to Article 8(29)(b), whereby arbitral award, similarly to a court decision, will be deemed as one of the documents verifying existence of bad debts.
- New paragraph is added to Article 82, which provides that profit received as the result of recognition of ownership in accordance with the law of Georgia on "Recognition of Ownership Right over Lands in the Possession (Use) of Natural Persons and Legal Persons of Private Law" will be exempted from income tax.

## Case Law

On 26 May 2017, decision of Appeals Court was published (case №:28/4023-13 (2013-09-03)) related to provisional measures. In the case, the claimant sought to secure his claim, however Appeals Court refused to grant such measure as, according to its view, likelihood of satisfying the claim was unsubstantiated.

Panel found that security measure for claim must be reasonable and serve the purpose of creating guarantees for performance of both primary and secondary claims. Imposing a lien on accounts of an enterprise will not only hinder enforcement of a judgement, but may also create impediments as to the solvency and financial capability of a debtor to comply with court decision which has entered into legal force. In order to ensure equitable protection of rights of both claimant and respondent, a claimant must make its best efforts to search for respondent's property; only should it be found that respondent has no property may the security measure in the form of a lien be imposed on accounts of an enterprise.

When deciding on security for claim, court further looks into whether claim is justified and substantiated, which stems from interpretation of Article 199(3) of Code of Civil Procedure of Georgia. Accordingly, when considering the issue of granting security for claim, court is obliged to assess whether the claim is substantiated as well as risks associated with rejecting use of security measure and legal results which may eventuate should security for claim be granted.

**If you have any questions regarding the information provided in this newsletter, please contact one of the Tax & Legal professionals at our Deloitte office in Georgia:**

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