



# Guide to Taxation and Investment in Georgia

Tax & Legal, 2021

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# Business and Investment Environment

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### Introduction

Georgia is the aspiring economic center of the Caucasus. It boasts years of robust economic growth, liberal tax and labor legislation, business friendly practices, low corruption, high security and openness to foreign investment. Georgia signed an association agreement with the EU in 2014 and its aspiration to join the EU will guide future policy decisions. On 2 February 2017, the European Parliament voted in favor of visa-free travel for Georgian citizens to the Schengen Area at a plenary session, and the visa-free regime between Georgia and the EU entered into force in April 2017. Georgia has state and private investment funds that encourage foreign investments to implement large scale projects in agriculture, tourism and generation of hydropower.

The World Bank ranked Georgia the seventh easiest place in the world to do business in 2020 (among 190 countries). The Heritage Foundation ranked Georgia twelfth (among 180 countries) for economic freedom in 2021. Georgia has a Standard and Poor and Fitch ranking of (BB) for the 2020 fiscal year. The oversubscription of state bonds in 2011 shows the confidence of international securities markets in Georgia. State securities trade at about 450 bps above comparable US treasury rates. Georgia has an ongoing IMF stand-by arrangement if financial need emerges, considering the tensions

in the country's major trade partners of Russia and Ukraine. The government's statement of long term priorities and plans emphasizes energy, agriculture, and regional trade. Georgia has minerals, water, hydropower and gold resources. The expansion of the financial sector, hydropower, mining, apparel production, telecommunications, and on-land and sea transport services has significantly increased the country's GDP.

Georgia boasts a picturesque sea coast with two modern seaports, which guarantees easy access to all the world's major ports. Georgia has a track record of prudent macroeconomic management, with low budget deficits and low inflation. That said, Georgia is a small open economy that is not immune to the economic trends of its trading partners. On a positive note, the cheaper local currency may facilitate exports. The Central Bank and the Ministry of Finance coordinate their efforts to counteract negative international trends that have led to the depreciation of the local currency. Georgia has high unemployment and a predominantly young population, which can be a benefit for firms seeking to enter the market. However, the skills of local, entry-level hires may need to be upgraded. As in any transitional country, changes and fine-tuning of policies are frequent, which may lead to confusion. Penalties for tax and customs violations are strict, and they are enforced accordingly.

The effective Tax Code of Georgia has been in force since September 2010, uniting the tax and customs legislation. Many consider the introduction of a new Tax Code to be a major step forward that will allow Georgian market reforms to advance in the right direction.

Although the Tax Code has been simplified, some uncertainties remain. Ministry of Finance officials strive to limit the number of Tax Code amendments to a maximum of three packages per year and establish clear rules for tax disputes.

### Georgia country key facts

|                                     |   |
|-------------------------------------|---|
| <b>Population:</b>                  | 3.72 m (Jan 2021)   |
| <b>Territory:</b>                   | 69,700 square kilometers  |
| <b>Autonomy:</b>                    | Adjara Autonomous Republic,   |
| <b>Abkhazia Autonomous Republic</b> | Azerbaijan, Russia, Turkey, Armenia                                   |
| <b>Neighbor states:</b>             | Azerbaijan, Russia, Turkey, Armenia                                   |
| <b>Capital:</b>                     | Tbilisi (pop. 1,202,731)  |
| <b>Other main cities:</b>           | Kutaisi (pop. 134,378), Rustavi (pop. 130,072), Batumi (pop. 172,063) |
| <b>Currency</b>                     | Georgian Lari (GEL)   |
| <b>Language</b>                     | Georgian  |
| <b>Stock Exchange</b>               | Georgian Stock Exchange (GSE)   |
| <b>Official share index</b>         | GSE Index   |

### Deloitte in Georgia

Deloitte provides services to Georgian clients and investors in Georgia from its office in Tbilisi. The firm offers accounting, statutory and international auditing; tax consulting; financial and risk advisory; and legal services. The Georgian office of Deloitte is part of the Deloitte Touche Tohmatsu global network.

We offer our clients locally oriented, individual services with the background and resources of an international organization. We have the strength, knowledge and expertise to provide sound advice to any business needs, anywhere in the world. When you call on us, you are calling on the resources of a strong local practice and an integrated global network. For a relatively new marketplace, our experience is wide-ranging and comprehensive. The scope of our services matches the needs of our clients. In this rapidly evolving market, we strive to remain flexible and responsive to the needs of our clients.

### Forms of Business Organization

The main types of business entities in Georgia are:

- **General Partnership:** an entity in which multiple persons (partners) carry out entrepreneurial activities jointly, under a single company name, and are liable for the obligations of the entity jointly and severally with all of their assets;

- **Limited Partnership:** an entity in which multiple persons, carry out entrepreneurial activities under a single company name, and where the liability of certain partners is limited to payment of a fixed guarantee amount (limited partners) whereas the remaining partners are jointly and severally liable (general partners);
- **Limited Liability Company:** an entity whose liability to its creditors is limited to its assets. The capital of a limited liability company is divided into shares, which are freely transferrable;
- **Joint-Stock Company:** an entity whose liability to its creditors is limited to its assets. The capital is divided into shares of a certain class and quantity as provided for by the company charter.
- **Cooperative:** an entity based on the labor activities of its members or established with the aim of developing the business and increasing the income of its members. The primary objective of such an entity is to satisfy the interests of its members rather than generate profit.

Foreign entities may also pursue their business interests in Georgia through registered branches/representative offices.

A natural person may also carry out entrepreneurial activities as a sole proprietor.

### Legal Requirements for Establishing a Company in Georgia

A company or any entity carrying out economic activity in Georgia is obliged to register with the corresponding legal entity of public law the National Agency of Public Register of Georgia ("NAPRG"). The NAPRG assigns an identification number to each taxpayer, which is used for all taxes, including customs tax.

According to the Law "On Entrepreneurs", to establish a company in Georgia, a number of documents must be submitted to the NAPRG. Namely:

- a properly submitted registration application, signed by each partner of the company and duly certified;
- a resolution of the partner(s) on incorporation of the company;
- the articles of association/company charter;
- if the founder is a foreign company, a registration document from the country of registration detailing the authority of its representatives;
- copies of the passport(s) of the company's director(s); if the company is founded by a natural person(s), copies of the passports of the founder(s);

- where applicable, the consent of the owner of immovable property to the use of such property by the company;
- the consent of the director(s) of the company to their appointment.

NAPRG can resolve to register a company either in one day's time or on the day of the application. The fee for registering a company in one business day is GEL 100, whereas the fee for same-day registration is GEL 200.

### Legal Requirements for Registering as a Sole Proprietor

In order to register as a sole proprietor, a natural person must submit the following to NAPRG:

- a properly filled-in application submitted to the registry;
- personal identification document; and
- where applicable, the consent of the owner of immovable property to the use of such property by the company.

NAPRG can register a sole proprietor within one day of submission of the documents for a fee of GEL 20 or on the day of submission for a fee of GEL 50.

### Establishing a Branch of a Foreign Company in Georgia

If a foreign company intends to carry out business activities in Georgia through a branch, it must register it. In order to do so, the following documents must be submitted to the LEPL National Agency of Company Registry:

- an application to register a branch;
- a duly certified resolution from the company on the establishment of a branch, or a Power of Attorney granting a person managerial powers;
- duly certified mandatory information on the company and its management.

NAPRG can resolve to register a branch of a foreign company in Georgia either within one day or on the same day the application was filed. To register a branch in one business day, the fee is GEL 100; same-day registration costs GEL 200.

### Authorized Capital and Contributions of Partners

According to the Law "On Entrepreneurs", the authorized capital of a Limited Liability Company or a Joint-Stock Company may be set at any amount.

### Licensing and Compulsory Notification to State Authorities

The Law of Georgia "On Licenses and Permits" lists the business activities for which licenses or permits must be obtained from a relevant state agency. The law also provides general procedures for issuing, amending, and revoking licenses and permits.

The Code of Administrative Offences of Georgia specifies the liability for conducting business activities that are subject to licensing without a license or in breach of relevant license conditions.

### Acquisition of Real Estate in Georgia

The transfer of title of immovable property is regulated by the Civil Code of Georgia. Immovable property includes land plots and the plants and minerals thereon, as well as the buildings fixed to the land plot.

In order to purchase immovable property, it is necessary to submit a properly formulated sale purchase agreement. If the sale purchase agreement is notarized or legalized (if necessary), it is sufficient for one of the parties to submit it to the registry. If the sale purchase agreement is not notarized or legalized (if necessary), both parties must be present at the registry and sign it before a representative of the registry.

NAPRG handles registration of property rights for immovable property. The fee for registering such property rights in four business days is GEL 50, GEL 150 for registration in one business day, or GEL 200 for same-day registration.

### Exchange Controls

Georgia has adopted a very liberal and investor friendly monetary policy. There are some legal restrictions on transferring foreign currency in or out of Georgia both as cash or credit.

The National Bank of Georgia, pursuant to the Law “On the National Bank of Georgia”, controls monetary regulations in Georgia.

Pursuant to the Law of Georgia “On the National Bank” of 24 September 2009, when offering or advertising services or products on the territory of Georgia, all entrepreneurs are obliged to estimate prices in Georgian Lari. Further, under the law, the Georgian Lari is the only legal tender in the territory of Georgia, although the law provides for some exceptions.

### Investment Incentives Object of Investment Activities and the Rights of Foreign Investors

The Law of Georgia «On Promotion and Guarantees of Investment”, of 12 November 1996 lays out the legal grounds for making both foreign and domestic investments in Georgia and guarantees their protection. Under the law, an investment is any kind of property or intellectual value or right to be contributed and used during entrepreneurial activity carried out on the territory of Georgia with the aim of earning potential income. For legal purposes, an investor is any natural/legal person or international organization that makes an investment in Georgia. A foreign investor may be a citizen of a foreign country (alien), a stateless person not residing in Georgia, a citizen of Georgia permanently residing abroad, or a legal person registered outside Georgia.

When foreign investors make an investment or conduct entrepreneurial activities, they enjoy rights equal to those granted to Georgian individuals/legal entities. Following the payment of taxes and other mandatory charges, a foreign investor is entitled to repatriate the earnings (income) or other funds that have been generated from the investment without any limitation. This right can only be limited by a court decision rendered under the relevant law in relation with bankruptcy, a criminal offence or failure to fulfil civil obligations.

### Protection of Investments in Georgia

Investment in Georgia is entirely and unconditionally protected by the applicable law. Investments may be seized in cases directly specified by the law, by virtue of a court decision, or in emergency cases prescribed by organic law, in exchange for a commensurate compensation.

The compensation to be paid to the investor must correspond to the real market value of the confiscated investment at the moment of its deprivation. The compensation must be given without any delay and include the losses incurred by the investor from the moment of deprivation until the compensation is paid.

| Category | Total Assets   | Operating Revenue | Employees |
|----------|--|-------------------|-----------|
| I        | > 50 mln   | > 100 mln         | > 250     |
| II       | < 50 mln   | < 100 mln         | < 250     |
| III      | < 10 mln   | < 20 mln          | < 50      |
| IV       | < 1 mln  | < 2 mln           | < 10      |
| PIE      | Public interest entities including: commercial banks and credit institutions, microfinance and insurance companies, non-governmental pension funds, investment funds, nonbank depositories and credit unions, other companies, defined as PIEs by the Georgian Government. |                   |           |

Size categories for the Group are determined based on the consolidated financial numbers using the same table above.

### Law of Georgia on Accounting and Financial Audit

On 8 June 2016, Georgian parliament passed a new Law “On Accounting and Financial Audit”, which had a significant effect on the businesses environment, challenging companies’ ability to quickly adapt to future changes while mitigating changes’ effects on their operations.

The new law “On Accounting and Financial Audit” classifies entities according to five major categories. Entities should meet at least two of the following criteria to fall into categories 1-4.

### Financial Accounting and Reporting Requirements

| Category | Reporting framework                               | Audit obligation | Management report obligation | Full financial reporting and filing obligation | Other reporting requirements                          |
|----------|---|------------------|------------------------------|--|---|
| PIE      | IFRS  | Yes***           | Yes                          | Yes  | Payments made to the state*<br>Non-financial report** |
| I        | IFRS  | Yes***           | Yes                          | Yes  | Payments made to the state*                           |
| II       | IFRS for SME (Optional — IFRS)                    | Yes***           | Yes                          | Yes  | None  |
| III      | IFRS for SME (Optional — IFRS)                    | No               | No                           | Yes  | None  |
| IV       | Defined by Agency (Optional — IFRS, IFRS for SME) | No               | No                           | Yes  | None  |

\* Payments Made to the State is a mandatory report for entities that engage in oil and gas extraction and wood production from natural forest.

\*\* Only PIEs that fall under category I.

\*\*\* Are not exempt from standalone audit even if they are subsidiaries of the audited group.

### Management Report

All PIEs and category I and II entities are obliged to prepare management reports.

Management report must include:

- a review of the entity's activities (development plans, share movements, risk assessment and management tools etc.);
- a corporate Governance Statement; (Obligatory for listed entities);
- a non-financial statement. (Obligatory for PIE's which fall in category I).

PIEs and enterprises of categories I and II must secure the opinion of an audit firm on the management report. Management report information can be disclosed in the financial statements of the entity. Management reports should include: a review of the entity's activities (development plans, share movements, risk assessment, management tools etc.)

A new Ordinance of the Government of Georgia uses the following criteria to define PIEs:

- a legal entity that has ownership of at least 25% of the shares in a state owned/ municipal entity; and
- meets the criteria for category I and II entities at the end of the reporting period.

# Taxation in Georgia

## Filing and Publishing Financial Statements and Enforcement Dates

Regulations entered into force in January 2017 for categories I and II and PIEs and in January 2018 for categories III and IV. However, the requirements for category IV were postponed for two years, which means that the regulation for category IV came into effect in 2020.

The following statements for all categories except for PIE should be filed no later than 1 October of the following reporting period:

- Financial Statements
- Management Report
- Statement on Payments Made to the State
- Audit Opinion

In line with the government decree N-217, dated February 11, 2021 PIEs shall submit audited financial statements and management reports no later than 1st of July of the following the reporting period; and unaudited financial statements and management reports, for early access, must be submitted no later than 1st of April of the year following the reporting period.

## Other important requirements

- Entities must prepare financial statements at least once a year and disclose the comparative numbers as well;
- PIEs must publish their financial statements (including consolidated financial statements) on their website;
- where an entity/group no longer meets at least two criteria of the size category table for two successive reporting periods, the size category of the entity/group changes and the requirements of the new category apply;
- the entity is entitled to use only the standard permitted for entities belonging to a larger size category;
- entities that fall under the PIE, I, and II categories are also obliged to have their financial statements audited in accordance with the law even if they are part of a group of companies that has been audited;
- Financial statements and supporting documents should be maintained for six years after the end of the financial year.

## Taxation System

The Tax Code of Georgia is the principal source of tax law and is referred to as a normative act. The Tax Code has been amended several times since it was published on 22 December 2004. The Parliament of Georgia adopted a new Tax Code of Georgia that came into effect on 1 January 2011. Although other laws may affect taxation, they may not contradict the provisions of the Tax Code. Tax exemptions and concessions may be granted only through amendments to the Tax Code. Tax issues cannot be regulated by other legislation, except for administrative offenses (included in the Administrative Offense Code), tax crimes (included in the Criminal Code), priority of tax obligations (included in bankruptcy laws), levies, and provisions pertaining to the Law "On Tax Liabilities and State Loans Restructuring".

## Definitions of terms in the Tax Code

The Tax Code contains a number of definitions, many of which have a specific meaning that may differ from their commonly understood meaning; in some cases, these are adopted from other laws by reference. However, in other cases definitions for the terms used in the Tax Code are not provided at all. It is therefore very important to understand and apply the terms provided in the Tax Code correctly.

## Personal Income Tax

### Tax Jurisdiction

Non-residents and tax resident individuals are subject to Georgian income tax only on income received from Georgian sources.

An individual is considered a resident of Georgia for personal income tax purposes if he or she is present in Georgia for more than 183 days in any 12-month period ending in a tax (calendar) year, or if the individual was abroad during the tax year in public service of Georgia. An individual may also become a tax resident of Georgia if she/he is considered a high net worth individual, defined under the Law of Georgia "On Securities Market".

Personal income tax is imposed on wages and other forms of compensation paid to employees as well as income earned by physical persons or entrepreneurs from their economic activities. Payers of income tax are:

- employers (except at free economic zone enterprises) who are paying wages (in monetary or non-monetary forms) to physical persons or employees in Georgia;
- physical persons who are entrepreneurs and organizations and permanent establishments who make payments to physical persons (excluding VAT paying



physical persons, notary officers, private enforcement officers, physical persons carrying micro-business status or fixed tax payers within the corresponding activities) who render services in Georgia and are not registered as sole proprietors with the tax agency;

- Physical persons, entrepreneurs and partnerships conducting entrepreneurial activity in Georgia.

### Taxable Income and Exemptions

Resident individuals are taxable on their domestic income, i.e., on income “received” from Georgian sources. Income is taxable irrespective of whether it is received in cash or in-kind. The following benefits received by a resident individual are specifically excluded from the taxable base of personal income tax: dividends, interest and royalties (except for when the receiver has benefited from the input right) received from resident companies that were previously taxed at the source of income.

### Tax Rates

Unless other rates apply (such as for dividends and interest), income of physical persons is taxed at a flat rate of 20%.

Income from renting out a residential space to a person for solely residential purposes without making any deductions from this income is taxed at 5%.

Income from the sale of vehicle or a residential apartment (house) with an attached land plot is taxed at 5%.

### Payment of Income Taxes

Generally, income taxes are withheld at source from payments of wages, dividends, interest, and certain other types of payments to nonresidents. The physical or legal person (including branches and other structural units of Georgian legal entities) that makes such payments must, as a tax agent, withhold the income tax and pay it to the state budget. Any person (sole proprietors, foreign or Georgian companies) who makes a payment to a physical person (excluding VAT paying physical persons, notary officers, private enforcement officers, physical persons carrying the status of micro-business or fixed tax payers within the corresponding activities) not registered with the tax agency as a sole proprietor for work performed and services rendered is required to withhold income tax at the source of payment.

The following tax agents withhold income taxes at the source of payment:

- Physical persons or entrepreneurs who make payments to physical persons working as employees in his/her sole proprietorship;
- legal persons who makes payments to physical persons working as employees;

- physical or legal persons paying pensions to physical persons, with the exception of pensions paid under the state social security system or under the Funded Pension Scheme;
- resident legal persons paying dividends to physical persons;
- physical or legal persons (except licensed financial institutions) paying interest to physical persons;
- physical or legal persons making payments to non-residents; branches and other separate units of foreign companies.

### Funded Pension Scheme

The Law of Georgia “On Funded Pension Schemes” came into force on 1 January 2019. The law regulates the organization and execution of the pension scheme, and sets forth the terms and conditions for participation in it. The law applies to employers, citizens of Georgia, and foreign nationals and stateless persons residing in Georgia on a permanent basis. This effectively means that the law will apply to foreign nationals if they satisfy the following two criteria: they are Georgian residents as per the Tax Code and simultaneously hold a permanent residence permit in Georgia. According to the Scheme, the pension payment starts on 1 January 2019 and applies to the gross salary of an employee based on specific conditions prescribed by the law.

Contributions are made in the following manner:

- an employee contributes 2% of their gross salary to the Scheme through an electronic system when their salary is paid;
- the employer contributes 2% of the employee's gross salary to the Scheme in their name;
- the state contributes:
  - 2% of the salary if the employee's annual income is < GEL 24,000; or
  - 1% if GEL 24,000 < annual income < GEL 60,000;
- self-employed person pay 4% of their annual income.

### Profit Tax

#### Tax Jurisdiction and Payers of Profit Tax

Legal entities incorporated in Georgia are normally treated as tax residents and are taxable on their worldwide income. Legal entities incorporated abroad are normally treated as foreign tax residents (“nonresidents”) and are taxable on income from Georgian sources or income from performing business activities through their permanent establishment in Georgia. The profit tax is imposed on profits earned by Georgian and foreign enterprises.

Branches of Georgian companies do not pay profit tax independently, but consolidate their profit (or loss) with

the main enterprise, which pays the total profit tax.

### **Distributed Profit Tax System**

Georgia is actively looking for ways to stimulate economic growth and attract more investments from foreign and local investors. The Georgian government considered the Estonian experience of 16 years with a different corporate model as a potential way forward.

Following protracted negotiations and discussions, several amendments and an addendum to the Tax Code were adopted by the Georgian parliament and signed into law by the president in May 2016. This fundamentally changed the profit tax regime for Georgian companies and PE of nonresident companies. The profit tax regime, which imposed a tax on the annual taxable profits of companies, has been changed to a system according to which tax must be paid only if corporate profits are distributed, similarly to the system adopted by Estonia.

In conjunction with this reform, certain tax rules ceased to apply to resident entities and PEs of nonresident entities as of 1 January 2017, including tax depreciation rules, thin capitalization rules and tax loss carry forward rules.

### **Objects of Taxation**

The distributed profit tax system came into effect on 1 January 2017. However, these rules do not apply to commercial banks, credit unions, insurance organizations, microfinance organizations and Loan Issuers, defined under the Law “On the National Bank of Georgia” until 1 January 2023. The distributed profit tax system applies only to Georgian resident companies and PEs of nonresident companies, and the tax base comprises both actual and deemed profit distributions, including the following:

- distributed profits;
- expenses incurred or other payments not related to economic activities;
- gratuitous supplies of goods/services and/or transfers of funds; and
- representation expenses that exceed the maximum amount defined in the Tax Code.

Special rules apply to profits arising from transactions related to the Baku-Tbilisi-Ceyhan (“BTC”) and South Caucasus Pipeline (“SCP”), under the Host Government Agreements, and oil and gas operations under current agreements to engage in these activities that were concluded before 1 January 1998 in line with Georgian laws. These profits are taxed according to the provisions and tax norms that applied before 1 January 2017.

### **Tax Filing and Payment Due Dates**

The profit tax rate has remained unchanged at 15%, however, to calculate the taxable amount, the amount of a distribution subject to taxation must be divided by 0.85. In the case of gratuitous supply of goods/services, the taxable amount is determined based on the market value of the goods/services. If the market value of the goods/services includes VAT, the taxable amount is determined based on the amount exclusive of VAT.

The tax reporting period is a calendar month. Tax returns must be filed and tax must be paid no later than on the 15th day of the month following the reporting calendar month.

### **Items subject to tax**

***Distributed profits:*** Under the law, amounts distributed to shareholders as dividends in monetary or nonmonetary form are considered taxable distributed profits. Dividends paid between Georgian companies are excluded from the taxable base (except for dividends paid out of net profits earned from 1 January 2008 to 1 January 2017). This effectively means that further distributions of taxed dividends by Georgian companies (not counting sole proprietors and persons exempt from profit tax under the Tax Code) are not deemed profit distribution. However, further distribution of the taxed dividends received from commercial banks, credit unions, insurance organizations, microfinance

organizations and Loan Issuers, as defined under the Law “On the National Bank of Georgia”, is not deemed profit distribution only for net profits earned between 1 January 2008 and 1 January 2023.

Net profits earned from 1 January 2008 to 1 January 2017, as well as the dividends of net profits earned between 1 January 2017 and 1 January 2023 if distributed by 1 January 2023, that are paid to commercial banks, credit unions, insurance organizations, microfinance organizations and Loan Issuers as defined under the Law “On the National Bank of Georgia”, are deemed profit distribution.

Allocations of dividends received from foreign enterprises (with the exception of entities resident in low-tax jurisdictions) are not considered distributed profits.

Payments made to a nonresident enterprise, whether in monetary or nonmonetary form, from profits earned from a PE’s activities, are treated as distributed profits of the PE (except profits of the PE earned before 1 January 2017). The profits attributable to a PE are those profits that it would be possible for the PE to generate as an independent enterprise engaged in the same or similar activities, operating under the same or similar conditions.

The following items should also be treated as profit distributions:

- Transactions carried out by an enterprise with related parties that are not subject to profit tax if the value of the transaction agreed to between the parties is different from the market value and their interdependence affects the result of the transaction;
- Cross-border transactions with related parties, if the conditions established for such transactions do not comply with the arm's length principle; and
- Transactions carried out by an enterprise with a party exempt from income/profit tax (except for a budgetary organization, the LEPLs Deposit Insurance Agency and the National Bank of Georgia), if the value of the transaction is different from the market value.

If resident enterprises distribute dividends on or after 1 January 2017 from net profits of the period between 1 January 2008 and 1 January 2017, they have the right to offset the tax paid on the distribution against the profit tax paid in the prior reporting period. The profit tax credit should not exceed the tax paid on the profit distribution, as envisaged in the Tax Code. The amount of tax credit is calculated according to the following formula:

**$A \times B / (C - D)$ , whereby:**

- A — The amount of dividend subject to distribution;
- B — The profit tax accrued and paid during a reporting period falling between 1 January 2008 and 1 January 2017;
- C — The net profit earned in a reporting period falling between 1 January 2008 and 1 January 2017;
- D — The value of the shares/stakes of the enterprise transferred to its partner in exchange for dividends from the net profit earned by such an enterprise during the period of 1 January 2008 to 1 January 2017.

***Expenses incurred or other payments***

***not related to economic activities:*** The law provides a list of expenses that are not considered to be related to economic activities and that are treated as deemed profit distributions. The key categories of such expenses are the following:

- Undocumented expenses;
- Expenses that are not incurred for the purpose of deriving profit, income or compensation; and
- Interest payments on loans at a rate higher than the annual threshold rate defined by the Georgian Minister of Finance.

The distributed profit tax rules also set forth other types of payments that are subject to profit tax as deemed profit distributions; the key categories of such payments are the following:

- Payments made for the acquisition of a debt security issued by a person resident in a low-tax jurisdiction,

or by a person exempt from profit tax under the Tax Code (except a budgetary organization, or the LEPLs the Deposit Insurance Agency and the National Bank of Georgia);

- Payments of penalties/fines arising from contractual relationships or advance payments made to a person resident in a low-tax jurisdiction, or to a person exempt from profit tax under the Tax Code (except a budgetary organization, or the LEPLs the Deposit Insurance Agency and the National Bank of Georgia);
- Capital contributions or payments made to purchase share/interest (excluding the purchase of shares/interest placed at the stock exchange recognized by a foreign country) for the right to participate in the equity of a nonresident or a person exempt from profit tax under the Tax Code;
- Issuance of loans or payments made for the acquisition of a claim toward a person resident in a low-tax jurisdiction, or a person exempt from profit tax under the Tax Code (except the LEPLs the Deposit Insurance Agency and the National Bank of Georgia). This rule does not apply to commercial banks, credit unions, insurance organizations, microfinance organizations and the Loan Issuers, as defined under the Law "On the National Bank of Georgia"; and

- Issuance of loans to a resident individual or a nonresident, (excluding the purchase of the debt securities placed at the stock exchange recognized by a foreign country) is subject to profit tax. Herewith, the funds available in a bank account for securing loans issued by a third party to a partner individual or a partner nonresident are also subject to profit tax. In this case, the amount of the tax base is defined by the amount of such funds available in a bank account for securing the loan (this rule does not apply to commercial banks, credit unions, insurance organizations, microfinance organizations and the Loan Issuers, defined under the Law "On the National Bank of Georgia").

However, where actual payments are made in relation to an acquired debt security, equity participation or claim transfer, or, in the case of loans/advance payments, where the provision of the funds available in a bank account for securing loans is cancelled or goods/services are delivered in exchange for the advance payments, the entity that was subject to tax on the deemed profit distribution is entitled to claim an offset and refund of the profit tax incurred in the reporting period of the deemed distribution.

The list of countries that are deemed low-tax jurisdictions is defined in Government Decree N615 of 29 December 2016.

**Gratuitous supplies of goods/services and/or transfers of funds:** According to the law, supply of goods/services that is not made for the purpose of deriving profit, income or compensation is considered to be gratuitous supply and is subject to tax as deemed profit distribution. A shortage of inventory or fixed assets is also deemed to be gratuitous supply of such goods at the time when the shortage is identified.

The following are major exceptions to the gratuitous supply of goods/services rules, which are not subject to profit tax:

- Donations made to a charitable organization during a calendar year, which do not exceed 10% of the net profit derived during the previous calendar year;
- Gratuitous transfers of goods or funds that have already been taxed at source, and
- Gratuitous supply of goods/services or transfers of financial resources to the government, municipalities or LEPLs.

**Representation expenses:** According to the law, the maximum amount of representation costs incurred during the calendar year shall be 1% of the income received during the previous year (1% of expenses incurred, if the expenses exceed the income); any excess costs shall be treated as deemed distribution of profits.

The maximum amount of representation costs incurred in the year of incorporation must be 1% of expenses incurred by the end of the current calendar year.

#### **Legal Entities to whom Distributed Profit Tax Rules do not Apply**

The old profit tax rules continue to apply to BTC and SCP participants, Production Sharing Agreement (PSA) contractors, and to persons who gained profit from organizing betting houses in systemic-electronic form. Herewith, commercial banks, credit unions, insurance organizations, microfinance organizations and Loan Issuers, as defined under the law "On the National Bank of Georgia" will shift to distributed profit tax rules in January 2023.

#### **Taxable Income**

Legal entities to whom distributed profit tax rules do not apply are taxed on profit, which is determined as gross income from economic activities less allowable deductions, at a flat rate of 15%. For Georgian enterprises, gross income includes all income regardless of its source or place of payment, except for income specifically exempt under the Tax Code.

#### **Deductible Expenses**

The Tax Code allows some expenses incurred in the course of economic activities to be deducted from gross income earned from such activities. Expenses not connected

with economic activities, personal expenses, and entertainment expenses are not deductible (unless entertainment is considered to be the taxpayer's economic activity and the expenses are connected therewith). In addition to the limitations of deductibility provided in the Tax Code, norms issued by the Ministry of Finance of Georgia also limit the extent of business trip expenses.

The Tax Code provides rules and limitations relating to specific deductions. The list of specific allowable deductions is as follows: interest subject to limitations, doubtful debts, insurance reserve funds, scientific research, depreciation of fixed and intangible assets, repairs, insurance payments, prospecting and extraction of resources, taxes and fines subject to limitations, representative expenses and losses on the sale of property.

#### **Deductibility of Interest Expense**

Any interest expense paid or incurred by the taxpayer in the course of their business activities is generally deductible. However, there are some interest deductibility limitations. Interest expense paid and/or payable (using the accruals method) on credit (loan) that did not exceed 24 % of the credit (loan) per annum is deductible.

#### **Depreciation and Amortization Allowance**

The Tax Code provides general rules

for the calculation of depreciation charges and the deductibility of fixed assets for corporate income tax purposes. The tax legislation gives the taxpayer an option either to deduct depreciation charges calculated on fixed assets over a period of time or fully deduct the cost of purchase (production) of such assets immediately.

Should the taxpayer employ the above mentioned right in respect of full deduction of cost of fixed assets, they should continue to use the same method in the future for five years for all purchased or produced fixed assets for corporate income tax purposes. Taxpayers are entitled to deduct from gross income the full purchase or production cost of a purchased or produced fixed asset in the year when they were put into exploitation.

Generally, depreciation allowances are permitted for all capital assets, including fixed and intangible property. Exceptions include land, art (including but not limited to paintings, jewelry and antiques), museum items, historical objects (except for buildings), biological assets and any other assets that are not subject to wear and tear. In addition, a fixed asset with a value lower than GEL 1,000 is not subject to depreciation. Such assets should be fully deducted from gross income in the accounting year when they were purchased or produced.

To compute depreciation expense for the tax year, fixed assets subject to depreciation (with exceptions described below) are grouped into asset categories depending on the type of asset; they are depreciated at the rates stipulated by the Tax Code. Depreciation charges are determined for each group rather than for each individual asset within the group.

Depreciation on buildings and structures is charged individually, so each building or structure is considered a separate group.

Assets subject to depreciation are categorized into five groups. Groups of fixed assets are subject to depreciation. Depreciation rates are shown in the following table:

| Group # | Types of Fixed Assets   | Depreciation Rate |
|---------|---|-------------------|
| 1       | Motor cars; motor and tractor equipment for use on roads; office furniture, movable parts of motor transport; trucks, buses, special motor vehicles and trailers; machinery and equipment for all sectors of industry and the foundry industry; blacksmith and pressing equipment; construction equipment; agricultural vehicles and equipment. | 20                |
| 2       | Special tools, stock and equipment; computers, peripheral devices and equipment for data processing; electronic devices.  | 20                |
| 3       | Railway, maritime and river transport vehicles; power vehicles and equipment; thermo-technical equipment and turbine-powered equipment; electric engines and diesel generators; electricity transmission and communication facilities; pipelines.   | 8                 |
| 4       | Buildings and structures  | 5                 |
| 5       | Assets subject to depreciation not included in other groups   | 15                |

According to the Tax Code, taxpayers are allowed to use an accelerated depreciation method for asset groups 2 and 3, provided that the accelerated depreciation rates do not exceed the rates specified for these groups more than twofold.

Expenses related to intangible assets should be deducted in the form of depreciation (amortization) charges in proportion to their limited useful life. If it is impossible

to determine the useful life of an intangible asset, such an asset should be depreciated at the rate of 15%. Intangible assets should be recorded as a separate group. Expenses related to the purchase or production of intangible assets should not be included in the value of intangible assets subject to depreciation, provided that they were deducted from the taxable income (profit) of the taxpayer.

### Deductibility of Repair Expenses

The Tax Code provides for the deduction of expenses incurred in connection with the repair of fixed assets. Repairs that neither add material value to the asset, nor significantly prolong its life, but keep it in efficient operating condition, are considered repairs for tax legislation purposes. Conversely, repairs deemed replacements, to the extent that they slow the deterioration and significantly prolong the life of the property, must be capitalized and depreciated in accordance with the 5% provision of the Tax Code. The maximum deduction for repair expenses is 5% of the balance of each asset group at the end of the tax year, as long as adequate documentation of the expenses is provided. Any repairs incurred that exceed 5% are added to the balance of the asset group and depreciated. However, if an entity uses a 100% depreciation deduction method, then repair expenses should be deducted in full from taxable gross income.

As mentioned above, expenses that do not increase the standard (normative, original) performance of fixed assets are considered general expenditure. As such, these expenses do not represent repair expenses for taxation purposes and therefore can be deducted in full from gross income.

### Statute of Limitations

The statute of limitation for taxes is three years. However, this term is extended by one year if a taxpayer files a tax return (including an amended one), or submits a taxpayer's claim within one year prior to the expiration of the statute of limitations. If the loss is carried forward for three or more years, the statute of limitation is extended — loss carryforward period plus one year.

The statute of limitation for filing a taxpayer claim with a tax authority is three years, which is calculated from the end of the calendar year in which the right to refund for the sum of the overpaid tax and/or sanction (including customs sanction) arose.

### Limitations on Loss Carryforward

According to the Tax Code, legal entities to whom distributed profit tax rules do not apply are entitled to carry forward prior year losses for a period of up to five years and set off losses against gross income of future periods.

Further, a taxpayer can elect a 10-year loss carryforward period for loss incurred in 2010 or in subsequent years, whereby the statute of limitation is increased from 5 to 11 years. A 10-year carryforward period can still be changed to a 5-year carryforward period when the losses carried forward are used up.

**Tax Accounting Rules**

The Tax Code obliges legal entities to maintain accurate records of income and expenses under a cash or an accrual method of accounting. However, the taxpayer must use the same method for both financial and tax purposes and consistently use the chosen method throughout the tax year. The taxpayer must record all transactions connected with their activities. At the same time, the contents of a transaction, its subject, amount, and the titles of the parties participating in it must be described completely and clearly in the primary reporting documentation.

Any primary accounting document for taxation purposes is considered to be a document if it has a date and transaction amount, reflects the requisites of the parties to the transaction and contains a description of the transaction. There should be at least two identical copies of any such document. A taxpayer is required to keep primary accounting documents for at least three years following the year when the document was issued.

**Cash Method**

When using the cash method of accounting, a taxpayer is required to record income upon its actual receipt, regardless of when the income was earned. Expenses are recorded when payment is made rather than when the expense was incurred.

**Accruals Method**

Unlike the cash method, the general rule for the accruals method of accounting requires a taxpayer to record income when it was earned (at the moment of supply of goods/service) regardless of when it was actually received. Expenses are recorded when incurred rather than when the expense was paid.

**Taxation of Nonresidents of Georgia**

**Tax Jurisdiction over Nonresidents**

Foreign enterprises may also be subject to profit tax in Georgia. The extent to which a foreign enterprise is subject to profit tax depends on whether it conducts its activities through a permanent establishment or not.

**Taxation of a Nonresident’s PE in Georgia**

Foreign enterprises carrying out economic activities through a PE in Georgia are subject to profit tax on distributed income received from Georgian sources relating to the activities performed by its PE.

**Definition of the PE**

According to the Tax Code, a PE of a foreign enterprise or non-resident individual in Georgia is recognized as a defined location on the territory of Georgia where an entrepreneurial activity is fully or partially carried out, including activity conducted through an authorized person.

The following factors specifically lead to the creation of PE: construction sites,

assembly or building facilities, and the exercise of controlling activities connected with such facilities; installations or sites; drilling equipment or ships used for surveying natural resources and the exercise of controlling activities connected with such facilities; a permanent base where a non-resident physical person carries out entrepreneurial activity; a place of management of a foreign

enterprise, branch, representative office, department, bureau, office, agency, workshop, mine, pit, or other place for extraction of natural resources; any other separate unit or place of activity of such an enterprise.

If a foreign enterprise or non-resident physical person carries out entrepreneurial activity in Georgia through an intermediary,

| Income from Georgian Sources  | Current Tax Rate |
|---|------------------|
| Dividends   | 5%               |
| Interest  | 5%               |
| Oil and gas subcontractors  | 4%               |
| International telecommunication and transportation services   | 10%              |
| Royalties   | 5%               |
| Management fees   | 10%              |
| Income received in the form of wages  | 20%              |
| Payments to non-residents of other Georgian-sourced service-related income not connected to their PE in Georgia | 10%              |

agent or broker with professional status as defined by Georgian legislation, and such an intermediary is not authorized to conduct negotiations or sign agreements (contracts) on behalf of this foreign enterprise or non-resident physical person, then the activities of such an intermediary, agent or broker do not lead to the creation of PE for the foreign enterprise or non-resident physical person in Georgia.

enterprise, cannot be regarded as a basis for the creation of PE if other features of a PE do not exist.

The execution of an agreement by a foreign company, which envisages the joint activity of parties to the contract being performed, fully or partly, on the territory of Georgia, cannot be regarded as a basis for the creation of a PE.

The possession of securities and shares in capital, as well as ownership of property on the territory of Georgia by a foreign

The mere fact of a foreign enterprise assigning its staff for employment in another enterprise or organization on the territory of Georgia

does not lead to the creation of PE if other features of a PE do not exist, as long as such employees will act on behalf of that enterprise and protect the rights of the enterprise to which they are assigned.

The establishment of a Georgian enterprise in Georgia is not considered a PE of a foreign company if it is used only to do the following: store or demonstrate goods or products belonging to the foreign enterprise; keep a stock of goods or products belonging to the foreign enterprise only for the purposes of processing by another person; purchase goods or products or collect information for the foreign enterprise; conduct any other activities that are preparatory or auxiliary in nature coming from the interests of the foreign enterprise; on behalf of a foreign company, prepare and/or merely sign loan agreements, contracts for the supply of goods, or contracts for technical services.

A PE of a foreign enterprise in Georgia is considered as such from the time of its registration with the tax agency, providing it with the relevant authority to commence representational activities. The responsibility to register a PE of a foreign enterprise lies with the tax authority, which is responsible for creating the relevant registry. The procedure for registration and registry is developed by the Ministry of Finance of Georgia.

#### **Taxation of Income Not Related to a PE**

Foreign companies not engaged in economic activities through a PE are subject to withholding tax on gross income from Georgian sources. No deductions from this income are allowed, and the tax is withheld at the source of payment. However, the Tax Code allows non-resident taxpayers who receive certain types of income to file a return and claim any deductions allowable as if this income was connected with a PE.

The following withholding tax rates normally apply to the following items of income from Georgian sources payable to nonresidents, provided that such income is not attributable to a nonresident's PE in Georgia:

If a non-resident is registered in an offshore or low-tax jurisdiction, interest, royalty and service fee (except for oil and gas, international telecommunication and transportation services) payments will be subject to withholding tax at the rate of 15%.

Dividends are subject to withholding tax if they are paid to individuals or foreign entities. It should be noted that dividends paid to Georgian legal entities are exempt from withholding tax at the source of payment, and dividends received by entrepreneurial legal entities should not be included in their taxable gross income.

#### **Georgian Source Income**

For profit tax purposes, the following income types are treated as received from Georgian sources:

- **Interest Income:** interest on debt obligations issued by a resident entity or permanent establishment of a foreign company;
- **Dividends Income:** dividends from a resident entity;
- **Royalty Income:** royalties received from a resident entity;
- **Income from Immovable Property:** income from the sale of immovable property located in Georgia;
- **Other Income:** certain other types of income.

#### **Taxation of Cross-Border Transactions Outbound Transactions**

Since resident entities are taxable on their worldwide income in Georgia and may also be taxable by foreign states on their income derived from sources or from carrying on business in such states, the same income is potentially subject to double taxation. In terms of domestic tax law, profit tax paid outside Georgia is credited upon payment of tax in Georgia. Excess foreign tax credit may not be offset against the resident taxpayer's Georgian tax liabilities on any domestic source income, nor can they be carried forward or backward.

#### **Double Tax Treaties**

Georgia has valid double tax treaties with 56 countries, which generally follow the OECD or UN Model Tax Convention on Income and on Capital. .

| Country                 | Project Duration for PE Purposes | Maximum Tax Rates Applicable in Country of Source |           |               |
|-------------------------|----------------------------------|---|-----------|---------------|
|                         |                                  | Dividends   | Interests | Royalties     |
| Austria(2)              | 6 months                         | 0% / 5% / 10%                                     | 0         | 0             |
| Azerbaijan              | 6 months                         | 5%/10%  | 5%/10%    | 5% / 10%      |
| Armenia                 | 6 months                         | 5% / 10%  | 5% / 10%  | 5%            |
| Bahrain                 | 6 months                         | 0   | 0         | 0             |
| Belarus                 | 12 month                         | 5% / 10%  | 5%        | 5%            |
| Belgium                 | 9 months                         | 5% / 15%  | 5% / 10%  | 5% / 10%      |
| Bulgaria                | 9 months                         | 5% / 10%  | 5% / 10%  | 5% / 10%      |
| China                   | 6 months                         | 0% / 5% / 10%                                     | 5% / 10%  | 5%            |
| Croatia                 | 9 months                         | 5%  | 5%        | 5%            |
| Cyprus                  | 9 months                         | 0   | 0         | 0             |
| Czech Republic          | 6 months                         | 5% / 10%  | 5% / 8%   | 0% / 5% / 10% |
| Denmark                 | 6 months                         | 0% / 5% / 10%                                     | 0         | 0             |
| Egypt                   | 6/183 days                       | 5% / 10%  | 5% / 10%  | 5% / 10%      |
| Estonia                 | 9 months                         | 0   | 0         | 0             |
| Finland                 | 6 months                         | 0% / 5% / 10% (2)                                 | 0         | 0             |
| France                  | 6 months                         | 0% / 5% / 10%                                     | 0         | 0             |
| Germany                 | 6 months                         | 0% / 5% / 10%                                     | 0         | 0             |
| Greece                  | 9 months                         | 5% / 8%   | 5% / 8%   | 5%            |
| Hungary                 | 12 months                        | 0% / 5%   | 0         | 0             |
| Iceland                 | 6 months                         | 5% / 10%  | 5%        | 5%            |
| India                   | 90 days                          | 5% / 10%  | 5% / 10%  | 5% / 10%      |
| Iran                    | 12 months                        | 5% / 10%  | 5% / 10%  | 5%            |
| Ireland                 | 6 months                         | 0% / 5% / 10%                                     | 0         | 0             |
| Israel                  | 9 months                         | 5%  | 5% / 15%  | 0             |
| Italy                   | 6 months                         | 5% / 10%  | 0         | 0             |
| Japan                   | 12 months                        | 5% / 15%  | 0%/10%    | 0%/10%        |
| Kazakhstan              | 6 months                         | 5% / 15%  | 5% / 10%  | 5% / 10%      |
| Kingdom of Saudi Arabia | 6 months                         | 5% / 0%   | 5% / 0%   | 5% / 8%       |

| Country              | Project Duration for PE Purposes | Maximum Tax Rates Applicable in Country of Source |           |           |
|----------------------|----------------------------------|---|-----------|-----------|
|                      |                                  | Dividends   | Interests | Royalties |
| Korea                | 9 months                         | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| Kuwait               | 6 months                         | 0%/5%   | 0         | 5% / 10%  |
| Latvia               | 6 months                         | 5%  | 5%        | 5% / 10%  |
| Liechtenstein        | 9 months                         | 0   | 0         | 0         |
| Lithuania            | 9 months                         | 5% / 15%  | 5% / 10%  | 5% / 10%  |
| Luxemburg            | 6 months                         | 0% / 5% / 10%                                     | 0         | 0         |
| Malta                | 6 months                         | 0   | 0         | 0         |
| Moldova              | 3 months                         | 0% / 5%   | 0% / 5%   | 0% / 5%   |
| Netherlands          | 6 months                         | 0% / 5% / 15%                                     | 0         | 0         |
| Norway               | 6 months                         | 5/10%   | 0         | 0         |
| Poland               | 6 months                         | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| Portugal             | 9 months                         | 5% / 10%  | 5% / 10%  | 5%        |
| Qatar                | 6 months                         | 0   | 0         | 0         |
| Rumania              | 9 months                         | 5% / 8%   | 5% / 10%  | 5%        |
| San Marino           | 6 months                         | 0   | 0         | 0         |
| Serbia               | 9 months                         | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| Singapore            | 6 months                         | 0   | 0         | 0         |
| Slovakia             | 6 months                         | 0   | 5%        | 5%        |
| Slovenia             | 6 months                         | 5%  | 5%        | 5%        |
| Spain                | 6 months                         | 0% / 10%  | 0         | 0         |
| Sweden               | 12 months                        | 0%/10%  | 0%        | 0%        |
| Switzerland          | 6 months                         | 5% / 10%  | 0         | 0         |
| Turkey               | 12 months                        | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| Turkmenistan         | 6 months                         | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| Ukraine              | 12 months                        | 5% / 10%  | 5% / 10%  | 5% / 10%  |
| United Arab Emirates | 6 months                         | 0   | 0         | 0         |
| United Kingdom       | 12 months                        | 0% / 15%  | 0         | 0         |
| Uzbekistan           | 6 months                         | 5% / 15%  | 5% / 10%  | 5% / 10%  |



On 25 May 2021, the Parliament of Georgia ratified the double tax treaties with Japan and Hong Kong the Special Administrative Region of the People's Republic of China.

Georgia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument" or "MLI") in June 2017. On 29 December 2018, the Parliament of Georgia adopted a resolution on the ratification of the multilateral "Convention to Implement Tax Treaty-Related Measures to Prevent Base Erosion and Profit Shifting. Based on the above, following the signature and ratification of the multilateral Convention, various provisions from the convention will be introduced to the major part of the selected agreements on avoidance of double taxation signed and approved by Georgia.

### Value Added Tax

With effect from 1 January 2021, fundamental changes with respect to VAT was entered into force, and the new VAT law will be based on the EU VAT directives.

### Taxable transactions

According to the Tax Code, the taxable transactions are: supply of goods/service in the territory of Georgia in return of consideration and taxable import. Taxable transactions do not include goods/services supplied outside of Georgia.

A taxable import is an import of goods. For import of goods, VAT is chargeable on the customs value of the goods imported. The customs value of any imported goods is equal to their value in terms of the customs legislation of Georgia, including the value of transportation or other auxiliary services attributable to such imports, plus any custom duties and excise taxes imposed on importation.

### VAT Registration Rules

According to the Tax Code if a resident company or a non-resident entity acting through its PE makes taxable supplies in the territory of Georgia which exceed GEL 100,000 in the preceding consecutive twelve-month period, it has to register as a VAT payer with the tax authorities. Registration should take place not later than two days following the supply exceeding GEL 100,000. The following VAT exempted transactions will be also considered in the calculation of GEL 100,000 threshold:

- VAT exempted transactions related to finance and immovable property operations, unless it is connected to the major activities of the taxable person;
- Export;
- Supply of certain VAT exempt transactions with the right to recover input VAT and render of services by an intermediary acting on behalf of another person, participating in certain

operations or in operations carried out outside of Georgia.

The foregoing threshold is not applicable to transactions subject to reverse charge of VAT ("RCVAT").

However, a taxable person who has a fixed establishment (any place that is not the place of establishment of a taxable person, but is characterized by a sufficient degree of permanence as well as a proper structure in terms of human and technical resources, enabling it to provide or receive services and use it for its own needs) in Georgia is obliged to calculate and pay VAT from the moment of providing the service/delivery of goods (including this transaction) and it has to apply to the tax authority for registration as a VAT payer no later than the last day of the reporting calendar month when this transaction was carried out.

The obligation to calculate and pay VAT (without the obligation to register as a VAT payer) arises for a taxable person (who is not established or does not normally live in Georgia or does not have a fixed establishment in Georgia) that participates in providing services (telecommunication, radio and television broadcasting services; electronically delivered services) in the territory of Georgia, except the cases where such supply is subject to RCVAT. For these purposes, one of the cases when services will be considered to be rendered in the territory of Georgia is when the place of the service recipient is Georgia.

Pursuant to the Tax Code, voluntary VAT registration is also permitted.

### VAT Rates

The VAT rate applicable to taxable transactions and taxable import in Georgia is 18%, referred to as the standard rate, which is applied to most goods/services. Certain transactions are exempt from taxation. There are two types of exempted transactions: transactions exempted with or without the right to recover input VAT. The export of goods is exempted with the right to recover input VAT, while import of certain medicine, passenger cars, publications, mass media and baby products are exempted without the right to recover input VAT.

### Time of Taxable Transaction

According to the Tax Code, a VATable transaction occurs at the time of supply of goods (services). However, it should be no later than the time when compensation was paid to a supplier of goods/services in advance.

If goods are supplied on a regular or continuous basis, the time when a tax invoice for any part of such a transaction was issued or payment was made is deemed to be the time of the supply of goods, but no later than the last working day of the reporting month.

### Place of Taxable Transaction

A taxable transaction for VAT purposes is a supply of goods (rendering of services) that is performed on the territory of Georgia.

According to the Tax Code, if the recipient and supplier of services are located in different countries, the place of supply for VAT purposes includes the following: the place of registration of the recipient of services or the place of management or location of permanent establishment of the recipient of services, assuming that the services are directly related to the permanent establishment. This provision of the tax law is applicable to supply of intangible assets, consulting, legal, accounting, engineering, advertising and staffing services, as well as telecommunication, radio and television broadcasting, data processing, electronically provided services, and other similar services.

### VAT Invoice

VAT payers making taxable supply are required to issue a VAT invoice to customers no later than 30 calendar days after customers' notice. The VAT invoice is a strict reporting document approved by the Ministry of Finance of Georgia that confirms that a VATable transaction was in fact carried out. A VAT invoice may be issued in electronic form.

### Tax Document

Tax payers that transport or supply goods

within the country or render services are required to issue a tax document. The tax document is a strict reporting document approved by the Ministry of Finance of Georgia. A tax document may be issued in electronic form, and the taxpayer has no obligation to issue a VAT invoice (including a special tax invoice), provided that the tax document is issued.

### VAT Administration Remittance

VAT on domestic supplies and the import of goods/services is administered by the tax authorities.

Any taxable person should assess the amount of VAT to be remitted to the state budget by reducing ("crediting") their output VAT liability (VAT collected on outward taxable supplies) with input VAT credit (VAT incurred on inward taxable supplies and import supplies).

### VAT Credit

Any input VAT incurred by a taxable person on inward domestic supplies and imported supplies is creditable against their output VAT liabilities, provided that such input VAT was incurred for taxable imports and taxable transactions where the goods or services were used or to be used for the purposes of the taxpayer's economic activity, even if they are not included in production costs.

If VAT taxpayers have taxable transactions and VAT-exempt transactions as per the Tax Code, VAT credit is determined in accordance with the amount of goods (services) which were used in the taxable transactions.

If such differentiation is impossible, VAT credit is determined based on the ratio of the exempt supplies with the right to reclaim input VAT to the total turnover for the month. VAT creditable on a ratio basis should be adjusted pursuant to the December tax return of the current year, when the exact ratio of annual taxable and exempt turnover must be determined.

If exempt supplies without the right to reclaim input VAT are more than 20% of total turnover of the previous tax year, input VAT on fixed assets is recoverable only in the last reporting period of a tax year, in proportion to the exempt supplies without the right to reclaim input VAT in total turnover of this calendar year. If exempt supplies without the right to reclaim input VAT are more than 20% of total turnover of the previous tax year, input VAT on fixed assets is recoverable only in the last reporting period of a tax year, in proportion to the exempt supplies with the right to reclaim input VAT in total turnover of this calendar year.

It should be noted that VAT credit is not allowed if it was paid out for: charity, social and entertainment events; goods/

services used to produce VAT exempt goods/services without the right to recover input VAT. VAT credit is also not allowed on tax invoice that was not reported to a tax agency or was not reported within the defined timeframe, namely::

- VAT credit should be reported no later than the December reporting month of the taxable transaction calendar year or reported as an amended tax return within the three calendar years following the taxable transaction.

### Tax Refunds

Since export supplies are exempt with VAT input right, any taxable person making supplies for use or consumption outside of Georgia may claim as a credit their input VAT incurred in connection with exported supplies. Although the excess credit is refundable, VAT refunds are in fact difficult to obtain in Georgia.

In certain cases, VAT payers are eligible to refund overpaid VAT amounts automatically. An automatically refundable VAT asset of a taxpayer is recorded separately on a VAT refund card of a taxpayer on the web portal of the Revenue Service, and the taxpayer is able to obtain a tax refund by simply clicking on the abovementioned VAT return card.

Starting from 16 November 2020 on the basis of the decision of the Head of Revenue

Service after submitting a VAT return VAT payers may automatically obtain a VAT refund on their Georgian bank account (without claiming a VAT refund).

A surplus of VAT creditable over VAT assessed in the reporting period can be offset against the future tax liabilities or be refunded within one month.

#### **VAT Refund Procedures for VAT payer of EU State Member**

The following rule was developed to promote the capital market in Georgia and fulfil the obligations assumed by the Georgian government under the Association Agreement between Georgia and the European Union. A foreign enterprise registered as a VAT payer in an EU member state can reclaim VAT incurred for purchase of services/goods (except immovable property) or for import of goods in Georgia provided that:

- the services/goods are used in a VATable transaction;
- the foreign enterprise does not have a fixed establishment in Georgia or its place of economic activity or/and place of permanent residence is not in Georgia;
- if engaged in the same or similar activities, a Georgian enterprise registered

as a VAT payer would be entitled to reclaim the input VAT.

The VAT payer is obliged to appoint an authorized representative. The rules and terms of the VAT refund, as well as the required criteria that the authorized representative must meet, is determined according to Order # 996 of the Minister of Finance of Georgia. According to Order #996, the authorized representative should be a VAT-registered resident person of Georgia and should act based on the power of attorney.

The taxpayer is required to submit an application to the Revenue Service, which must contain the following information/ documentation:

- a copy of the tax invoices (adjusted account-based invoices, if applicable) issued by the Georgian VAT payer to the EU member state VAT payer;
- In case of import of goods in Georgia, a copy of the import declaration and document confirming payment of VAT;
- power of attorney confirming the appointment of the authorized representative.

The application must be accompanied by a document issued by the authorized tax authority of the respective member state of the European Union indicating:

- the registration number of the VAT payer in the respective EU member state and the date of VAT registration;
- the proportion used for input VAT in the respective EU member state;
- a description of the activity that the taxpayer carried out during the reporting period to ensure that the transaction is subject to VAT in the respective EU member state.

When submitting an application for a VAT refund, the reporting period indicated in the application should not exceed one calendar year and should not amount to less than three months of the calendar year. If the reporting period indicated in the application covers less than the calendar year, but not less a than three-month reporting period, the amount of refundable VAT should not be less than GEL 1,200.

The Revenue Service of Georgia should make a decision within six months from the date of registration of the application. VAT must be refunded in GEL.

#### **VAT Refund Procedures for Foreign Nationals**

Foreign nationals are entitled to claim a VAT refund paid on goods purchased in the territory of Georgia at the time of the export of the goods out of Georgia, provided that the goods are exported

within three months after the purchase and the value of the goods per one receipt exceeds GEL 200 (excluding VAT).

To receive the tax refund, foreign individuals must submit a receipt to the tax authorities in the form officially approved by the Ministry of Finance of Georgia. The refund procedures, a list of goods subject to VAT refund, and criteria for sellers entitled to issue the receipts, are determined by the Ministry of Finance of Georgia.

#### **Excise Tax General Rules**

All physical and legal persons producing or importing excisable goods in the territory of Georgia are subject to excise taxes. For excisable goods produced or manufactured in the territory of Georgia from raw materials supplied by customers, the producer of the goods is subject to excise taxes.

Since excise duty is an indirect tax, any excise duty paid in connection with exported items produced in Georgia may normally be refunded to the exporter. Excise tax is imposed on wine, beer and liquors (whiskey, vodka, etc.); cigarettes and other tobacco products; cars; and natural gas, oils, oil distillates, and other products produced from oil and bituminous minerals. International calls received on mobile and home phones are subject to an excise tax of GEL 0.15 and GEL 0.08 per minute respectively.

**Time of Taxable Transaction**

For the production of the excisable goods in Georgia, the time of a taxable transaction is considered to be the time of a supply (transfer) of goods. For import, the tax point is deemed to be the time of import. The moment of supply of goods is deemed to be the time of a taxable transaction with respect to the excisable goods subject to stamping.

**Excise Stamps**

Under domestic tax law, affixing excise stamps is required for imported and locally produced alcoholic beverages designated for consumption in Georgia, including beer stronger than 1.15 degrees (other than beverages of 50 grams or less and those bottled in vessels of 10 liters and more), and all tobacco products except pipe tobacco.

According to the Tax Code, it is prohibited to supply and import excisable goods without excise stamps under a free circulation regime in the territory of Georgia. The tax authorities controlling excise payments will seize unstamped imported goods and provided for the sale of excise goods in accordance with the established procedure. From the moment of seizure the goods are deemed to be state property.

If goods are imported or/and supplied without excise stamps (due to loss, destruction, etc., except for force major circumstances), the goods are considered

to be imported or/and supplied and are taxed in accordance with the legislation of Georgia. If goods are not imported within six months after the excise stamps were received, the importer is required to return the stamps.

Failure to return excise stamps within the abovementioned period is deemed import or supply of excisable goods subject to excise stamping in the territory of Georgia and is taxed accordingly. In the following period, when excisable goods marked with the non-returned excise stamps are imported, the amount of taxes due is calculated pro rata to the amount of actually imported goods.

**Local Taxes**

Property tax is a local tax that comprises land tax and property tax of individuals and enterprises.

Local self-government bodies are entitled to establish local taxes within their authority on their respective territory within the maximum limit stipulated by the Tax Code.

**Property Taxes**

**Property Tax of Physical Persons**

For physical persons, taxable objects of property tax (except for land) includes fixed assets used for economic activities, immovable property (buildings or parts of them) and construction in progress, yachts (motor boats), helicopters, airplanes and vehicles under Code 8703 of the National

Commodity Nomenclature of Foreign Economic Activities.

Property tax rates are differential and are based on the amount of annual income of the physical person, regardless of his/her tax residency status, from sources in Georgia and outside the country. The property tax rate is between 0.05- 0.2% of the fair market value of the property located in Georgia if the individual's family's worldwide income is between GEL 40,000 and GEL 100,000 during the reporting calendar year. If, however, such annual income exceeds GEL 100,000, the tax rate is between 0.8% and 1%.

The individual is required to submit the tax return before 1 November following the reporting calendar (tax) year and pay the tax to the tax authorities before 15 November of the same year.

**Property Tax of Georgian enterprises**

Payers of property tax other than physical persons include Georgian enterprises and foreign enterprises engaged in economic activity in Georgia through PEs and organizations whose property or part of whose property is used for economic activity. For foreign enterprises, property tax is imposed only on property located in Georgia.

The fixed assets, investment property, uninstalled equipment and construction

in progress that are listed on the balance sheet of the enterprise, as well as similar property listed on the balance sheet of an organization and utilized for economic activity are, unless specifically exempt, subject to property tax at a flat rate of 1% of the average annual net book value of the property. In order to arrive at the taxable base, the net book value of immovable property recorded in the balance sheet of a company at the beginning and end of the year 2019, which was purchased before the year 2000, between 2000-2004 and in 2004 should be multiplied by 3, 2 and 1.5 respectively. However, these coefficients are not applicable to certain state owned companies and to Georgian companies that record their immovable property based on the revaluation method and whose financial statements are audited by an audit company included in a list published by the Government.

**Land Tax**

Physical and legal persons who are owners or users of state-owned land plots, including land used for agricultural and non-agricultural purposes, are subject to land tax. The land tax depends on the quality and location of land and is not based on the taxpayer's economic results.

The base maximum annual rate for non-agricultural land amounts to GEL 0.24 per square meter. The tax must be calculated by multiplying the annual

base tax rate by the territorial coefficient and the land area. The differentiation of the land tax by territorial coefficient is made in accordance with location and zones of the land plot.

Tax returns for property tax (including land) should be submitted by physical persons and legal entities no later than 1 November and 1 April of the reporting year respectively.

### Other Taxes

#### Fee for the Use of Natural Resources

Physical and legal persons (including branches of foreign companies) engaged in any activity that requires a license to use natural resources (except for land) owned by the state, as well as persons engaged in the timber industry, are subject to a fee for use of natural resources.

This fee is imposed on the volume of natural resources (such as minerals and timber) extracted, and the tax rates are based on the resources extracted. According to the Law of Georgia "On Fees for the Use of Natural Resources", some types of activities are granted a 70% reduction in the fee rate.

#### Fee on Gambling Businesses

The fee on gambling is paid by persons that carry out entrepreneurial activities through organizing lotteries, operating casinos, and other gambling businesses and are granted permits and/or licenses to carry out such activities by Georgian legislation.

#### Tax Filing and Payment Due Dates

The dates for the submission of tax returns depends on the type of tax. Below is a summary of the due dates for the submission of returns for four national taxes:

The deadline for submitting the annual income, profit or property tax return of a taxpayer may be extended, provided that the tax payer applies to the tax authorities with a written request before the filing due date and the taxpayer has paid the expected advance tax dues. Even if the extension is granted, the original due date for the tax is not altered. Below is a summary of the tax payment due dates for four national taxes:

| Month     | Personal Income Tax |                       | Profit Tax         |                    | VAT              | Excise           |
|-----------|---------------------|-----------------------|--------------------|--------------------|------------------|------------------|
|           | Employment Income   | Entrepreneur's income | Under "old" regime | Under "new" regime |                  |                  |
| January   | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| February  | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| March     | Withheld            | 31 <sup>st</sup>      | 31 <sup>st</sup>   | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| April     | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| May       | Withheld            | 15 <sup>th</sup>      | 15 <sup>th</sup>   | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| June      | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| July      | Withheld            | 15 <sup>th</sup>      | 15 <sup>th</sup>   | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| August    | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| September | Withheld            | 15 <sup>th</sup>      | 15 <sup>th</sup>   | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| October   | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| November  | Withheld            |                       |                    | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |
| December  | Withheld            | 15 <sup>th</sup>      | 15 <sup>th</sup>   | 15 <sup>th</sup>   | 15 <sup>th</sup> | 15 <sup>th</sup> |

#### Transfer Pricing Rules

Georgian tax legislation contains comprehensive transfer-pricing rules, and there are specific provisions in the Tax Code that are aimed at regulating the taxation of transactions between related persons. The tax authorities may allocate income and expenses between related parties based on the principles that would have applied in transactions between independent persons.

According to Georgian tax legislation, transactions between related parties

can be "controlled" by the tax authorities taking into account the principle of fair market value. The tax authorities can compare the conditions of transactions between related persons and the transactions of persons who are not related.

Georgian transfer pricing rules generally follow OECD transfer pricing principles; they apply to cross border transactions between: a Georgian company and a related foreign company; or a Georgian resident company and an unrelated foreign company registered in a low tax jurisdiction/offshore country.

According to the instructions, a taxpayer should maintain contemporaneous transfer pricing documentation and submit it to the tax authorities upon their request within 30 calendar days.

Georgia recognizes five pricing methods for evaluating whether prices are at arm’s length: comparable uncontrolled (independent) price; resale price; cost plus; net profit margin; and profit split. These pricing rules are based on the OECD transfer pricing methods.

| Month     | Annual Personal Income | Profit Tax for entities not taxed under a distributed profit tax regime | Profit Tax for entities taxed under a distributed profit tax regime | VAT              | Excise           |
|-----------|------------------------|---|---|------------------|------------------|
| January   |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| February  |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| March     | 31 <sup>st</sup>       | 31 <sup>st</sup>  | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| April     |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| May       |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| June      |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| July      |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| August    |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| September |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| October   |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| November  |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |
| December  |                        |   | 15 <sup>th</sup>  | 15 <sup>th</sup> | 15 <sup>th</sup> |

**Related Persons**

Persons are recognized as related if special relations that exist among them may affect the conditions or economic results of their activities or activities of persons represented by them.

The tax authority is authorized to make a reasonable written decision on the use of the market price for taxation purposes if the parties involved in the transaction are related persons, except for cases when their relationship does not affect the results of such transactions.

**Market value**

Georgian Tax Legislation provides various instructions for the tax authorities on how to define the market value (price) of supplied services/goods.

The tax agency is also entitled to utilize state authorities’ official sources of information regarding market prices, information submitted by taxpayers to the tax administration, and any other reliable information to determine the market price of goods (services).

**Country by country (CbC) reporting requirements**

CbC reporting regulations came into force in Georgia in July 2020. According to the rules, final parent enterprise

of a group of multinational enterprises, which is a resident of Georgia, is obliged to submit a CbC report to the tax authority by December 31 of the year following the reporting year. This obligation applies to a group of multinational enterprises with a total consolidated annual group income of more than € 750 million.

However, please note that even the rules are in force, the Ministry of Finance is yet to develop instructions on practical application of CbC rules.

**Customs Duties**

The Tax Code regulates the taxation of the import and export of goods. Customs duties are payable upon the release of goods by Customs officials. According to the Tax Code, the following fees are paid on the importation of goods:

**Import tax**

Goods transferred through the customs of Georgia are subject to customs tax at the rates 0%, 5% or 12%. The customs tax depends on the type of goods being imported.

**VAT**

Goods imported into Georgia are subject to VAT in accordance with the Tax Code. The rate of VAT is 18% of the value of the imported goods.

**Excises**

Excise tax is applicable to goods transferred through Georgian customs in accordance with the Tax Code.

**Export of goods**

According to the Tax Code, the export of goods from the territory of Georgia is exempt from VAT and excise tax with VAT and excise input rights.

**Taxation of Activities Related to the Major Export Pipeline (MEP)**

On 18<sup>th</sup> of November 1999 the Governments of Georgia, Azerbaijan and Turkey signed the Host Government Agreement Between and Among Georgia, Azerbaijan and Turkey Relating to the Transportation of Oil In and Beyond the Territories of Georgia, Azerbaijan and Turkey through the BTC Pipeline. Pursuant to Articles 1 and 2.2 of the Agreement, Appendix 1 on "Host Government Agreement Between and among the Government of Georgia and the MEP Participants", is an integral part of the Agreement.

**Profit Tax**

The profit tax of an MEP participant consists of a Base Profit Tax at a fixed rate of 15% and Profit Tax Surtax. The Profit Tax Surtax is calculated based on the amount of oil transported through the MEP.

MEP Participants should submit their profit tax return to the tax authorities (drawn

up exclusively in USD) for each calendar year before 1 April of the following reporting calendar year.

**Value Added Tax**

According to the Host Government Agreement, supply of goods, works and services to and by an MEP participant in connection with the BTC project are exempt from VAT with input VAT rights. In addition, imports and acquisitions of goods, works and services are subject to 0% VAT. If for some reason a contractor incurs a VAT charge, they have the right to recover it through an offset against other taxes.

The MEP participant should obtain a confirmation of VAT exemption from the tax authorities of Georgia.

The VAT exemption certificate serves as proof that no VAT should be charged. A person to whom supply is being made should present a copy of this exemption certificate in order to avoid VAT charges. The certificate should be submitted to the customs authorities to avoid VAT on import of goods.

**Other Taxes**

Under the Host Government Agreement on BTC, no taxes are imposed on or withheld with payments to any contractor in connection with project activities, or any other contractor in connection with MEP activities. Contractors

don't have tax compliance or filing obligations in connection with MEP activities.

MEP Participants are entitled to import into or export or re-export from Georgia, whether in their own name or on their behalf, the following goods free of taxes and restrictions: all equipment, materials, machinery, tools, vehicles, spare parts, supplies, petroleum, fuels and lubricants to be used in connection with the MEP, and all other goods (other than natural gas), works, services or technology necessary or appropriate for use in connection with the MEP.

Foreign employees of MEP Participants, contractors, each family member of a foreign employee or contractor, and the MEP Participant on behalf of any such foreign employee, contractor or family member, are entitled to import into or export or re-export from Georgia free of taxes and restrictions, whether in its own name or on its behalf, all goods, works, services or technology for their own use and personal consumption or for the use and personal consumption of such employees, contractors and family members; provided, however, that all sales by such foreign employees within Georgia of any such imported goods to any other person are taxable, and, in the case of sales of automobiles, furniture and professional tools and instruments, will result in liability for customs import tariff, in accordance with Georgian laws.

Personal income tax of foreign employees is calculated only on their income earned as a direct result of their employment in Georgia and only if such employee spent more than 183 days in Georgia. No social tax and other similar payments are due from MEP Participants and their foreign employees with respect to such foreign employees.

**Production Sharing Regime****Legislative Framework**

Under the production sharing regime, an investor is granted the exclusive right to the exploration, development and production of mineral resources from the subsoil area by the Georgian Government for a certain period of time. The investor guarantees the development of such mineral deposits at his own or her own risk and expense. By committing to share the production of mineral resources with the State under the terms and conditions of PSA, the investor becomes entitled to a share of the extracted production. The PSA mechanism is commonly used in Georgia.

**PSA Tax Regime**

Petroleum taxation in Georgia is governed by two legislative acts: the Tax Code of Georgia and the Law No. 1892 "On Oil and Gas" of 16 April 1999. The Tax Code does not contain a separate chapter stipulating the taxation under PSAs, and the term "PSA" is not used. However, the Tax Code includes rules for the taxation of oil and gas operations.



The term “oil and gas operations”, as defined by the Law “On Oil and Gas”, includes the exploration and production of oil and gas within the area specified in the PSA and License, as well as activities connected with such operations (gathering, treating and storing produced oil and gas on the area).

Tax benefits that may be applied by the parties of a PSA are set out in the Tax Code. Equipment or structure, drilling equipment or ships used for surveying natural resources, as well as the performance of controlling activities related thereof, are deemed to create a PE of a foreign company party to a PSA, which leads to profit tax liabilities calculated at the general profit tax rates. However, this provision of the Tax Code of Georgia does not apply to non-resident subcontractors of the parties of PSA carrying oil and gas operations. Such subcontractors are subject to taxation at the source of gross income. A reduced rate of withholding tax of 4% is applied, and their activities do not lead to the creation of a PE.

Under the Tax Code, certain transactions conducted in accordance with the Law “On Oil and Gas” are exempt from taxation:

- Import of machinery, means of transportation, spare parts and materials used for oil and gas operations conducted

according to the Law “On Oil and Gas”, as well as supply of goods (works, services), required for oil and gas operations by investors and operating companies in compliance with PSA specified by the Law “On Oil and Gas” and/or licenses issued for carrying out oil and gas transactions, are exempt from import tax and VAT without the right to recover input VAT.

- Import and/or supply of oil products necessary to perform oil and gas transactions specified by the Law “On Oil and Gas” are exempt from excise tax.
- Property needed for oil and gas operations is exempted from property tax.
- Land plots used for performing oil and gas transactions determined by the Law “On Oil and Gas” (if not used for other purposes) are exempt from land tax.

### Free Industrial Zone

As part of the effort to attract international investment capital and investors searching for a high rate of return, the Government of Georgia has decided to create free industrial zones (FIZ) in Georgia. FIZs offer extended tax benefits and simplify the operations of companies based there. Businesses registered in such zones benefit from relatively cheap and skilled Georgian labor, lower taxes, and easy access to the sea.

According to the law of Georgia “On Free Industrial Zones”, the industrial zone is a type of free zone envisaged by the customs legislation of Georgia where additional conditions and tax exemptions are applicable. However, the law provides a list of activities and goods for import that are prohibited in FIZs.

Investors can apply to the Ministry of Economic Development of Georgia to gain the right to operate in a FIZ.

There are currently four free industrial zones in Georgia. Companies incorporated in the zones the FIZ-enterprise status enjoy tax concessions as additional incentives; their activities are subject to simplified currency regulations and license/permit-related procedures.

When supplying goods to Georgian registered entities (except another FIZ enterprise) FIZ enterprises are required to pay a tax of 4% from the revenue received/receivable as a result of the supply of the goods (or fair value in case of gratuitous supply). The tax should be paid before the 15th day of the month following the reporting calendar month. FIZ enterprises should also pay the tax by the same deadline if a Georgian registered entity supplies FIZ enterprise with goods (except electricity, water and gas for local consumption and production).

### Special Trading Company

Special Trading Companies have been introduced to encourage the development of the trade transit function within Georgia. Special Trading Companies are enterprises that have been granted the status of special trading company for the purpose of exemption from profit tax envisaged under the Tax Code of Georgia. A foreign entity that conducts its economic activities in Georgia through PE has the right to obtain the status of Special Trade Company and register a separate PE only if the PE renders the activities of the special trading company envisaged by the Tax Code.

Special Trading Company status is obtained from the tax authorities of Georgia. The Minister of Finance of Georgia determines the rules for granting this status.

A Special Trading Company has the right to re-export foreign goods from the customs warehouse, execute the supply of foreign goods in the customs warehouse to a company with the status of Special Trading Company as well as to those without such a status; and purchase, for no less than the customs value, foreign goods for the purpose of later re-export and/or supply from a company without Special Trading Company status.

### Special Enterprise

Special enterprise is a person that A special enterprise is a person that, for the purpose of conducting activities in the occupied territories, has been granted the status



of a special enterprise by the tax authorities. A special enterprise has the right:

- to supply goods (originated or produced in the occupied territories of Georgia) from the occupied territories to another territory of Georgia;
- to place goods under the export customs regime from the territory of Georgia (except for the occupied territory of Georgia);
- to supply Georgian goods (except for goods originated or produced in the occupied territory of Georgia) to the occupied territory of Georgia;

Special enterprises are limited to the supply of goods within/from the territory of the Autonomous Republic of Abkhazia from/to Zugdidi municipality; and within/from the territory of Tskhinvali region (former Autonomous Region of South Ossetia) from/to Gori municipality. Special enterprises benefit from certain tax exemptions described in the Tax Code.

### Tourist enterprise

The status of tourist enterprise has been introduced to encourage the development of the tourism sector in Georgia. A tourist enterprise is a legal entity that builds hotels, supplies hotel assets/part of assets to other persons for return in the form of rent, and operates the building as a hotel according to the conditions of tourist enterprises described in Georgian legislation.

For each hotel, the status of tourist enterprise is obtained from the tax authorities of Georgia. The tax authorities are authorized to demand collateral, the amount of which should not exceed 18% of the value of the supplied assets.

The Georgian Government sets the rules for granting, running and cancelling tourist enterprise status, as well as the minimal amount for a building's area to be used as hotel rooms according to local self-governing bodies and other requirements. Tourist enterprises enjoy certain tax exemptions as provided in the Tax Code.

### International company

An international company is a duly registered Georgian legal entity that performs activities defined by a decree of the Georgian Government and earns income solely from these activities. An international company may not be set up within a FIZ.

The Resolution № 619 of the Government of Georgia issued on October 8, 2020 (the "Resolution") determines how the status of an international company is granted, approves the list of activities allowed, and defines which expenses that can reduce the taxable profit

International companies that conduct activities defined under the Resolution may benefit from certain tax concessions:

- International companies are required to withhold personal income tax at the source of payment of wages to employees in the amount of 5%;
- Dividends paid by an international company are exempt from withholding tax at the source of payment and should not be included in the receiver's taxable gross income;
- The property of an international company (except for land) is property tax exempt, if this property is intended or used to carry out the defined activities;
- The profit tax rate is 5%. The object of profit taxation for an international company is defined under a distributed profit tax system.

### Pharmaceutical enterprise

A pharmaceutical enterprise is a legal entity producing and supplying pharmaceutical products in Georgia. The Georgian Government sets the rules for granting, running and cancelling this status to pharmaceutical enterprises.

When pharmaceutical enterprises supply their manufactured pharmaceutical products, this supply is VAT-exempt with the right to recover input VAT.

This guide aims to provide the reader only with a general understanding of the tax and legal framework in Georgia effective at the time of writing. It neither purports to provide nor is intended to replace professional tax, legal or any other advice.

Any reliance made on the information contained in this guide is your sole responsibility, and Deloitte will not be held liable for any losses that may arise thereby. Full professional tax and/or legal advice should be sought when dealing with specific situations.

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