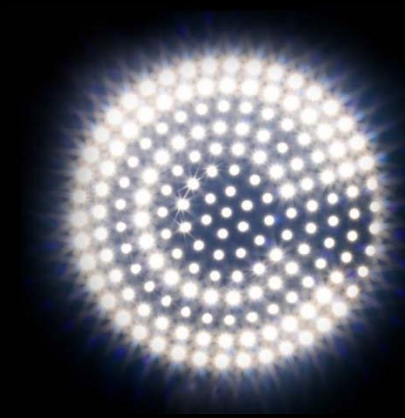
International Tax
Georgia Highlights 2018



Investment basics:

Currency – Georgian Lari (GEL)

Foreign exchange control – There generally are no foreign exchange controls and no restrictions on the import or export of capital. Funds may be repatriated in any currency, except for transfers of funds from another country to a resident of Georgia, which must be carried out in GEL. Both residents and nonresidents may hold bank accounts in any currency.

Accounting principles/financial statements – IAS/IFRS. Financial statements must be prepared annually. The Law on Accounting and Financial Audits requires that certain statements (financial statements, management reports, statements of payments made to the state and audit opinions) be submitted after the ninth month of the reporting period by certain categories of entities defined in the law.

Principal business entities – These are the joint stock company, limited liability company, general and limited partnership, cooperative and sole proprietorship. A branch of a foreign enterprise is not considered a separate entity, but rather a subdivision of its head office.

Corporate taxation:

Residence – An entity generally is considered a resident of Georgia if it is registered in Georgia.

Basis – Residents are taxable on their worldwide income; nonresidents are taxed only on Georgia-source income.

On 1 January 2017, Georgia moved from a tax regime under which companies were subject to tax on their annual taxable profits to a system where tax is paid only if corporate profits are distributed. The new profit tax system currently applies only to Georgia resident companies and permanent establishments (PEs) of nonresident companies. The rules will apply to commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops as from 1 January 2019.

Taxable income – Georgia resident companies and PEs of nonresident companies are taxed on their actual and deemed distributed profits, including the following: distributed profits, expenses incurred or other payments unrelated to economic activities, gratuitous supplies of goods/services and/or transfers of funds and representation expenses that exceed the maximum amount set out in the tax code.

Certain types of payments are subject to profit tax as deemed profit distributions, including 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 that is exempt from profit tax under the Georgia tax code (except a budgetary organization or legal entity under public law);
- 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 that is exempt from profit tax under the Georgia tax code (except a budgetary organization or legal entity under public law);
- Capital contributions or payments made to purchase shares/interests (excluding the purchase of shares/interests placed on a stock exchange recognized by a foreign country) for the right to participate in the equity of a nonresident or a person that is exempt from profit tax under the Georgia tax code;
- Granting of loans or payments made for the acquisition of a claim toward a person resident in a

low-tax jurisdiction or a person that is exempt from profit tax under the Georgia tax code (except a public law legal entity, such as the Deposit Insurance Agency and the National Bank of Georgia); and

- Granting of loans to a resident individual or a nonresident (excluding the purchase of debt securities placed on a stock exchange recognized by a foreign country).

To calculate the taxable amount, the amount of a distribution subject to taxation is divided by 0.85.

Special rules apply to profits from oil and gas transactions.

Taxation of dividends – Dividends paid by a Georgian company to another Georgian company are excluded from the taxable base (except for dividends paid out of net profits earned between 1 January 2008 and 1 January 2017). Dividends paid out of net profits earned between 1 January 2017 and 1 January 2019 to commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops are deemed to be profit distributions, but further distributions of the dividends are excluded from the tax base.

A distribution of dividends received from a nonresident company (other than a nonresident company registered in a low-tax jurisdiction) is not deemed to be a profit distribution. The payment of profits attributable to a PE to a nonresident company is deemed to be a profit distribution.

Resident enterprises, except for PEs of foreign entities, that distribute dividends on or after 1 January 2017 from net profits that were subject to tax between 1 January 2008 and 1 January 2017 may offset the tax paid on the distributions against the profit tax paid in the prior reporting period, based on a formula set out in the tax code. The profit tax credit may not exceed the tax paid on the profit distribution.

Capital gains –Capital gains are not subject to taxation under the new profit tax system. However, capital gains are taxable as business income at the regular corporate income tax rate for commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops.

Capital gains derived from a related party transaction carried out at a value that differs from a market value are deemed to be distributed profits for Georgian resident companies and PEs.

Losses – Losses may be carried forward for up to five years, although a taxpayer may request a 10-year period from the tax authorities. The carryback of losses is not permitted. However, these rules do not apply to resident entities and PEs that are subject to the profit tax rules that apply as from 1 January 2017.

Rate – 15%

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Tax paid on income earned outside Georgia may be credited against Georgian tax, but the credit is limited to the tax assessed in Georgia on the income in accordance with the applicable rate. This rule also applies to PEs of foreign entities, with credit allowed against the profit tax on distributed profits.

Participation exemption – No

Holding company regime – No

Incentives – Taxpayers that are not taxable on their distributed profits may take accelerated depreciation on certain groups of assets, but the rate cannot exceed twice the normal depreciation rate provided in the tax code. These taxpayers also are entitled to fully deduct the costs of purchased or manufactured fixed assets in the year in which the assets are put into operation (a form of capital allowance); if the taxpayer utilizes the full deduction, this method must be applied to all fixed assets that are acquired or produced over the next five years. The full-deduction method cannot be applied to leased assets, nondepreciable assets or assets transferred to capital.

Withholding tax:

Dividends – Dividends paid to nonresident entities, noncommercial legal persons and individuals (whether resident or nonresident) are subject to a 5% withholding tax, unless the rate is reduced under a tax treaty.

Interest – Interest paid by a resident or a PE of a nonresident or on their behalf to individuals, organizations or nonresident entities without a PE in Georgia is subject to a 5% withholding tax, unless the rate is reduced under a tax treaty. However, the rate increases to 15% where the interest is paid to a nonresident registered in a low-tax jurisdiction.

Royalties – Royalties paid to a nonresident or a resident individual (other than an individual that is a e VAT payer) are subject to a 5% and 20% withholding tax, respectively, unless the rate is reduced under a tax treaty. The rate increases to 15% if the recipient is a foreign company registered in a low-tax jurisdiction.

Technical service fees – Technical service fees paid to a nonresident not engaged in oil and gas transactions are subject to a 10% withholding tax; the rate is 4% where the nonresident provides technical services with respect to oil and gas transactions. The tax rates may be reduced under a tax treaty.

The rate is 15% if the foreign company (other than a company engaged in oil and gas transactions, international telecommunications or international transportation) is registered in a low-tax jurisdiction.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The property tax rate is established by the local authorities and may not exceed 1% of the average residual value of fixed assets, investment property, uninstalled equipment and construction in progress recorded annually in a company's balance sheet. To arrive at the 2018 taxable base for real estate, the average net book value of real estate at the beginning and the end of 2018 is multiplied by a coefficient based on the purchase date if the taxable assets were purchased before 1 January 2005 (no coefficient applies for purchases after 2004). The coefficients are not applicable to state-owned companies or to certain Georgian companies that record their immovable property based on the revaluation method if other requirements are met.

Specific rates apply to land, depending on the location and fertility of the land.

Social security – No

Stamp duty – No

Transfer tax – No

Other – Any activity that requires a license for the use of natural resources (other than land) owned by the state is subject to a fee for the use of natural resources.

Anti-avoidance rules:

Transfer pricing – Georgian tax legislation contains comprehensive transfer pricing rules that generally follow OECD transfer pricing guidelines. There are specific provisions in the tax code that are aimed at regulating the taxation of transactions between related persons. The tax authorities can challenge related party transactions where the price agreed between the parties is diverges from the market value. The tax authorities can compare the conditions of transactions between related persons with those of transactions between unrelated parties and allocate income and expenses between related parties based on principles that would have applied in transactions between independent persons.

The transfer pricing rules apply to transactions between a Georgian resident company and a related foreign company, and between a Georgian resident company and an unrelated foreign company that is registered in a low-tax jurisdiction.

Five pricing methods are recognized for evaluating whether prices are at arm's length: the comparable uncontrolled (independent) price; resale price; cost plus; net profit margin; and profit split methods.

Taxpayers must maintain contemporaneous transfer pricing documentation, which must be submitted to the tax authorities within 30 calendar days of a request.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Compliance for corporations:

Tax year – The tax year is the calendar month for taxpayers taxable on distributed profits and the calendar year for other taxpayers.

Consolidated returns – No

Filing requirements – Georgia operates a self-assessment regime. Tax returns for taxpayers that are taxable on their distributed profits must be filed and tax paid by the 15th day of the month following the reporting calendar month. For other taxpayers, annual income tax returns must be filed by 1 April of the year following the tax (calendar) year. The deadline may be extended for up to three months. Advance payments of tax are made in four installments for calendar year taxpayers; those taxable on their distributed profits do not make advance payments of the tax.

Penalties – Penalties are imposed for failure to register with the tax authorities, late filing and failure to file a tax return, late payment of tax and the under-declaration of the tax liability.

Rulings – A ruling may be obtained from the tax authorities on the tax consequences of a transaction.

Personal taxation:

Basis – Resident and nonresident individuals are taxable only on Georgia-source income. Dividends and interest received by resident individuals from resident companies are excluded from the taxable base.

Residence – An individual is resident if he/she is present in Georgia for more than 183 days in any continuous 12-month period ending in a tax year, or if the individual was in the Georgian state service abroad during the tax year.

Filing status – Each registered individual taxpayer must file a separate return. Families, however, may file joint property tax returns.

Taxable income – The main categories of taxable income include employment income, income from independent activities, including business income (i.e. sole proprietors), dividends, interest, royalties, pensions, rental income and income from the disposal of property.

Capital gains – Capital gains derived by individuals from the sale of private property not related to a business activity are not taxable if the property has been held for more than two years. Capital gains derived from a business activity are included in business income. Capital gains are included in gross income and, after relevant deductions, are taxed at a rate of 20%.

Deductions and allowances – Expenses related to business activities are deductible for sole proprietors. There are no personal deductions or allowances for individuals.

Rates – Employment income (including benefits) and the income of sole proprietors is taxed at a flat rate of 20%.

Income from renting out residential space to a person solely for residential purposes, and where no deductions are taken from such income is taxed at 5%.

Dividends and interest are subject to a 5% withholding tax.

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

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Households with annual income below GEL 40,000 are exempt from property tax on real estate and light vehicles. Where annual income is between GEL 40,000 and GEL 100,000, the tax is payable at rates ranging from 0.05% to 0.2% of the market value of the taxable property; above GEL 100,000, the rates range from 0.8% to 1%.

Inheritance/estate tax – Gifts, other than gifts received from employers, with a value not exceeding GEL 1,000 per year are exempt. Gifts to first and second-degree relatives are fully exempt from personal income tax, while gifts to third and fourth-degree relatives are exempt up to GEL 150,000 per year.

Net wealth/net worth tax – No

Social security – No

Compliance for individuals:

Tax year – Calendar year

Filing and payment – A tax return must be submitted by 1 April following the tax year. Tax on employment income is withheld and remitted to the tax authorities by the employer, with the tax returns filed monthly. Other income is self-assessed. Income tax payable by a sole proprietor is due in four annual installments. For other individual taxpayers, the liability is settled by a single payment on 1 April of the year following the tax year.

Penalties – Penalties are imposed for failure to register with the tax authorities, late filing and failure to file a tax return, late payment of tax and the under-declaration of the tax liability.

Value added tax:

Taxable transactions – VAT is levied on the sale of goods and the provision of services and imports that are deemed to be carried out within Georgia. A taxable transaction occurs at the time of a supply of goods (services) and, in the case of a supply of goods involving loading, the time of loading. However, it may not be later than the time compensation was paid to the supplier of goods/services in advance. A reverse charge applies in certain supplies.

Rates – The standard VAT rate is 18%; certain transactions are exempt.

Registration – A business with annual business revenue of GEL 100,000 or more must register for VAT purposes.

Filing and payment – Filing and payment must be made by the 15th day of the month following the reporting calendar month. Input VAT may be credited against output VAT.

Source of tax law: Tax Code of Georgia

Tax treaties: Georgia has concluded tax treaties with 54 countries, and tax information exchange agreements with eight countries. Georgia does not honor the treaties concluded by the former Soviet Union, except for the treaty with Japan.

Georgia signed the OECD MLI on 7 June 2017.

Tax authorities: Revenue Service of the Ministry of Finance

Contact:

Giorgi Tavartkiladze (gtavartkiladze@deloitte.ge)

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