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## Tax & Law Brief

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### Ordinance №619 of the Government of Georgia "On Determining the Status of an International Company, Approving the List of Permitted Activities and Certain Expenses"

On 8 October 2020, Ordinance №619 of the Government of Georgia on the rules and conditions for obtaining the status of an international company was published. According to this ordinance, the status of an international company can be granted to an enterprise in the following cases:

- When the enterprise has at least 2 years of experience in the permitted activity provided by the ordinance (among others, in the software release, computer programming, shipbuilding activities, etc.)
- When the enterprise is a representative of a non-resident entity in Georgia and the non-resident entity has been carrying out one of the activities mentioned in the ordinance for at least 2 years while the same activity is also carried out by the Georgian enterprise;
- When shareholder entities holding more than 50% shares of the enterprise independently (each shareholder separately) have at least 2 years of experience in the mentioned activities, while the same activity is also carried out by the Georgian enterprise.

#### Obtaining the status of an international company

According to the Tax Code of Georgia, the income for working in an international company is taxed by 5 percent and the profit tax rate for an international company shall be 5 percent.

*Source: Legislative Herald of Georgia, 16 November 2020*



# Order №40 of the Head of the Competition Agency of Georgia “On the Approval of the Rules and Procedures for Investigating a Case”

On 4 November 2020, the Head of the Competition Agency of Georgia issued Order №40 “On the Approval of the Rules and Procedures for Investigating a Case” replacing the Order №30/09-5 dated 30 September 2014 of the Head of the Competition Agency of Georgia.

## Issues covered by the order

- The order, among others, covers the following:
  - The right of the parties to submit an opinion, information and/or evidence to the Competition Agency (Agency) at any stage of the investigation;
  - The right of the parties to request an extension of the deadline for the submission of information/evidence;
  - The right of the parties to request the information submitted to the Agency to be treated as a commercial secret;
  - The right of the parties to submit a substantiated request to the Agency for the rescheduling of the fine imposed for a period not exceeding one year.

## Duties of the party/interested party

- The party/interested party shall, among others:
  - Provide the requested information (including confidential) to the Agency;
  - At the request of the Agency, be present for an explanation;
  - Not interfere with the authorized person(s) of the Agency during the dawn raid.

## Dawn raid of an economic agent

- The order includes dawn raid procedures of the economic agent - the legal basis of a dawn raid, the rights and duties of the parties in the dawn raid, obtaining explanation during a dawn raid, obtaining information during a dawn raid, in particular:
  - The Agency may inspect an economic agent if there is a court order entitling the Agency to inspect to the economic agent's premises;
  - The economic agent shall be inspected during working hours and, if necessary, inspection can be extended during the non-working hours, including weekends;
  - The economic agent is entitled to invite a lawyer and/or another representative during the dawn raid;
  - During the dawn raid, explanations received by the authorized person from the representative and/or employee of the economic agent may be recorded in any form.

Source: *Legislative Herald of Georgia*, 16 November 2020

Contacts 

# Order №180/04 of the President of National Bank of Georgia on “The Rule on Insider Trading, Illegal Disclosure of Insider Information and Market Manipulation”

On 8 October 2020, the Order №180/04 of the President of the National Bank of Georgia on “The Rule on Insider Trading, Illegal Disclosure of Insider Information and Market Manipulation” was published.

- The order, among others, provides examples of insider information, possible cases of market manipulation, and duties of licensed stock exchanges related to suspicious activities, etc.
- According to the order, a licensed stock exchange in Georgia and a person who performs transactions based on the professional activity are obliged to develop and implement procedures proportional to their size and activity:
  - Continuous monitoring of suspicious activities and transactions to prevent and identify market manipulation or attempt of market manipulation, as well as insider trading or insider trading attempts;
  - Timely provision of information to the National Bank of Georgia on market manipulation or attempted market manipulation, as well as insider trading or insider trading attempts, but not later than 2 (two) working days after the emergence of the relevant reasonable suspicion.
- The order also identifies possible cases (list is not exhaustible) of market manipulation. According to the order, possible cases of market manipulation are:
  - Transactions or orders that makes erroneous or misleading signs (for instance, buying or disposing the securities when the market closes), the purpose of which is to influence the closing price of these securities;
  - Concluding transactions or placing orders to keep the price of securities at an artificial rate;
  - Misleading actions (for instance, spreading false or misleading information about the securities and issuer through the media (including the internet) or by other ways).

## Duty to implement proportional procedures

## Market manipulation

Source: *Legislative Herald of Georgia*, 16 November 2020

# Amendment to the Order № 240/04 of the President of the National Bank of Georgia on “The List of High-Risk Jurisdictions for the Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism”

## Amendment to the List of High-Risk Jurisdictions

On 10 November 2020, the President of the National Bank of Georgia amended the Order № 240/04 approving the List of High-Risk Jurisdictions for the purposes of the Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism.

- Under the amendment, the Republic of Iraq and Republic of Vanuatu were added to the list of high-risk jurisdictions, while Anguilla, Mongolia, Malta and Iceland were removed from the list.

*Source: Legislative Herald of Georgia, 16 November 2020*

# Draft law on Environmental Liability

## Duties of the responsible person for causing the damage

On 29 October 2020, the Parliament of Georgia adopted the draft law on Environmental Liability and related amendments by a second hearing.

- Under the draft law, damage to the environment is a negative impact caused by an industrial accident and/or illegal acts of an individual/entity.
- According to the draft law, in case of damage/significant damage, person responsible for causing the damage shall, among others:
  - Notify the Department of Environmental Supervision about significant damage;
  - Carry out redress measures at their own expense and responsibility.
- The draft law covers the provisions regarding administrative offenses and criminal liability. The draft law provides, among others, for the following penalties:

## Penalties

Act	Fine (GEL)
Failure to notify the imminent danger or damage to the environment	5,000-10,000
Failure to provide information on the possibility of restoring the damaged environment to the original state or restoring it to it close to the original state	5,000
Failure to take the necessary measures for damage prevention/mitigation	10,000-20,000

*Source: Parliament of Georgia, 16 November 2020*

## Decision of the Constitutional Court of Georgia

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On 12 November 2020, the Constitutional Court of Georgia upheld the constitutional claim of LLC Bekenasi. The claimant has challenged the provision of article 57<sup>1</sup> of the Code of Administrative Offenses, which provided the mandatory confiscation of the offence instrument (e.g. a tractor) in case of using the subsoil without respective license.

### Mandatory confiscation

- Claimant has stated that the confiscation of an instrument was not challenged itself but using the above sanction mandatorily – without individualization of the sanction.
- The Constitutional Court declared unconstitutional the normative meaning of the challenged provision that provided the mandatory sanction of confiscation of an item in case of breaching the above article and did not allow individualization of the sanction.

*Source: Constitutional Court of Georgia, 16 November 2020*

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**Let's talk**

For a deeper discussion of how this issue might affect your business, please contact us at PwC Georgia

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