

Legal Newsletter

(September 2021)

The present newsletter contains significant legislative amendments made in various legislative and sub-legislative acts in September 2021.

The Order №996 of the Minister of Finance of Georgia

On 29th of September, 2021, the amendment was made in the instruction approved by the Order №996 of the Minister of Finance of Georgia “on Tax Administration” of December 31, 2010, namely:

Paragraph 2 of the article 73¹ was formed with the following redaction:

„2. Considering the paragraph 1 of this article, in case of registration by a taxable person as VAT payer, the amount of VAT to be including on fixed assets shall be determined according to the years remaining after registration as VAT payer (including registration tax year) from the years specified in paragraph 6 of the article 73 of this instruction in proportion of their use in taxable transactions, namely:

a) VAT including by the taxable person is carrying out in accordance with the rule established by paragraphs 5 and 6 of the article 73 of this instruction, if the fixed asset is used or intended to be used by a taxable person both for transactions for which VAT including is eligible and for transactions for which it is not eligible and it is impossible to separate these transactions;

b) A taxable person has the right to receive full VAT from the moment of registration as a VAT payer no later than the reporting period of December, if the fixed asset is used by the taxable person or is intended to be used only in transactions for which he has the right to receive credit.

A new 2¹ paragraph was supplemented to the 2nd paragraph:

“If a person is registered as a VAT payer before January 1, 2021 and failed to include VAT on fixed assets put into operation before the date of registration, has the right to include the

amount of VAT determined in proportion to the remaining years from 2021 to the end of each year in proportion to its use in taxable transactions.”

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 200090000.22.033.017510

The Order came into force upon publication and its effect will apply to the legal relationships arising from January 1, 2021.

In the same order, on 14th of September, 2021, an amendment was made to the note 2 of the paragraph 4 of the article 107 of the approved instruction and it was formulated as follows:

„2. When leasing a license/part thereof, the license holder shall submit the calculation of the fee for the use of natural resources and pay the fee amount. ”

The amendment was also made to the article 112 and the following paragraph 50 was supplemented:

„50. If the submission of a fee calculation for the use of natural resources and the payment of the fee is made by the lessee of the license in the period before the 1st of January, 2021, the obligation in this part will be considered fulfilled by the license holder.

You can see the document of the above amendment fully at the link: <https://matsne.gov.ge> with the registration code: 200090000.22.033.017503

The Order came into force upon publication.

The Order №257 of the Minister of Finance of Georgia

On 29th of September, 2021, amendments were made to the instructions approved by the Order № 257 of the Minister of Finance of Georgia of August 29, 2019 on the approval of the instructions on the Movement and Registration of Goods on the Customs Territory of Georgia; in particular:

1. Sub-paragraph “c” of the paragraph 3 of the article 5 of the instruction on Customs Control was formed with the following redaction:

„c) "Yellow Corridor" - clearance of goods without inspection of goods, full or partial icameral inspection of declarations and documents, in accordance with the electronic

notification of measures to be taken, and when processing the customs declaration, the data indicated in it only in case of conformity with the risk profile of fulfillment of customs and/or tax liability on import duty - release of goods by submitting a guarantee of the relevant amount of due import duty and/or by paying the due import duty; ”.

2. Sub-paragraph “c” of paragraph 6 of the article 12, of the instruction (annex № 8) on making declaration and execution of goods in customs procedure or re-export was formed with the following redaction.

„c) "Yellow Corridor" - clearance of goods without inspection of goods, full or partial icameral inspection of declarations and documents, in accordance with the electronic notification of measures to be taken, and when processing the customs declaration, the data indicated in it only in case of conformity with the risk profile of fulfillment of customs and/or tax liability on import duty - release of goods by submitting a guarantee of the relevant amount of due import duty and/or by paying the due import duty; ”.

Also, sub-paragraph “e” was supplemented to the sub-paragraph “d” of the paragraph 7 of the article 1, of the instruction on procedures for release of goods for free movement and for the intended use of the goods, was formed with the following redaction :

„e) When processing a customs declaration submitted on the goods of a single eleven-digit commodity code of the national commodity nomenclature of foreign-economic activity the data specified in it only in case of compliance with the risk profile of fulfillment of customs and/or tax liabilities on the import duties, assignment of the assessment number and barcode for the customs declaration and release of the goods can be done by the customs checkpoint, if:

- e.a) It is submitted a guarantee of the appropriate amount of at least due import duty, or
- e.b) It is fully paid the fee of import duty, or
- e.c) Part of the import duty is paid and the guarantee is submitted for the rest.”;

b) The paragraph 2¹ with the following content was supplemented after the paragraph 2 of the article 2:

„2¹. For the purposes of the paragraph 2 of this article, the payment of the relevant amount of the import duty shall be confirmed by the presentation of a document certifying the fulfillment of the customs and/or tax liability at the customs checkpoint or at the customs authority of clearance. ”

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 230210000.22.033.017511

The Order came into force upon publication.

In the same order, on 21st of September, 2021, an amendment was made to sub-paragraph “a” of paragraph 3 of Part III of the instruction on declaration and execution of goods in customs procedure or re-export, and it was formed as follows:

„a) Boxes marked with an asterisk (*) are filled only in case of declaration of cash (national and/or foreign currency), checks and/or other securities by a moving natural person at the customs border of Georgia; In addition, the column “* origin and purpose of goods” shall indicate the following information:

a.a) Origin of cash (national and/or foreign currency), checks and/or other securities and field of activity of a natural person abroad (with detailed description);

a.b) Purpose of cash (national and/or foreign currency), checks and/or other securities, in particular, for what purpose are the goods transported at the customs border of Georgia;

a.c) When bringing cash (national and/or foreign currency), checks and/or other securities to the customs territory of Georgia for economic activity - a detailed description of the economic activity in Georgia of a natural person (including business partners, persons connected with entrepreneurial interest, with full reference of identification data);

a.d) Planned duration of stay in Georgia, residential address and other contact details (in case of a foreign citizen);

a.e) In case of declaration of cash (national and/or foreign currency), checks and/or other securities by a natural person in the previous period - the purpose of their use, in particular, for what aim and for what purpose they were disposed of.

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 230210000.22.033.017506

The Order came into force upon publication.

The Order №01-79/m of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia

On 7th of September, 2021, by the Order 101-79/m of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia the

proportional rate of annual working time for night work was determined and accordingly, in accordance with article 28, paragraph 2 of the Organic Law of Georgia “Labor Code of Georgia”, following person was defined as employed at night work:

- a) any employee who normally works not less than 3 hours at night work (from 22 o'clock to 6 o'clock) during the normalized working hours; Or
- b) Any employee who works not less than one quarter of the annual working time at the night time (from 22 o'clock to 6 o'clock).

With the same order approved "the periodicity and scope of conducting preliminary (before employment) and subsequent periodic medical examinations for a person employed at night." This document regulates issues related to pre-employment (pre-employment) and subsequent periodic medical examinations for a person employed at night. The order clarifies that the purpose of the preliminary (professional) medical examination conducted at the request of the employee is to determine the state of health of the person for the given night work or for those diseases, and for the detection of a pathological condition in which contact with a given occupational factor is contraindicated, accordingly, at the request of the employee, before the employment of the person in night work and with the periodicity provided by the order, the employer provides an assessment of the employee's health at its own expense to determine the potential risks of working at night and the negative consequences for the employee's health.

You can see the document of the above amendment fully at the link: <https://matsne.gov.ge> with the registration code: 470230000.22.035.016905

The Order came into force upon publication.

The Order №06/m of the Minister of Education, Science, Culture and Sports of Georgia

On 3rd of September, 2021, an amendment was made in the Order of the Minister of Education, Science, Culture and Sports of January 29, 2019 "on approval of the rules and conditions for the protection of security and public order in the general educational institution" concerning the obligations of the school resource officers, scope and purpose of regulation, definition of terms, ensuring awareness, the advisory board, measures to be taken to ensure safety and public order during emergencies, any kind of violence by the

student/towards student, providing psychosocial services, the rules of production of the electronic database, the rights and responsibilities of the school resource officers, the evaluation of the candidates for school resource officers, the appointment of those candidates who have successfully passed the preparatory courses, the rights and responsibilities of the authorized person.

You can see the full version of the amendment to the above document at the link: <https://matsne.gov.ge> with the registration code: 430090000.22.022.018077

The Order came into force upon publication.

The Order №580 of the Minister of Justice of Georgia

On 1st of September, 2021, in order to prevent the spread of the new coronavirus (COVID-19), the following amendments were made in the Order №580 of the Minister of Justice of Georgia of July 15, 2020 on determining temporary rules different from those established by the legislation on the administration of activities and by its services to persons of the National Agency of Public Registry - Legal entity under public law and its personnel services, as established by the Legislation":

1. Paragraph 2¹ with the following content was supplemented to the 2nd article

„2¹. Paragraph 2 of this article shall not apply to persons, with fully vaccinated against the new coronavirus (COVID-19) vaccine in the period from 1st of September, 2021 to 1st of November, 2021, registration of an individual entrepreneur, amendments in the registered data and their termination, as well as in case of submitting a request for preparation of an extract from the register of rights to immovable property within 1 working day. ”

2. The Article 3² with the following content was supplemented to the Order:

„Article 3²

1. Citizens of Georgia fully vaccinated against New Coronavirus (COVID-19) and stateless persons with having status in Georgia until the 1st of November, 2021, they are exempted from paying the fees established by the legislation of Georgia for the registration services/access to information provided by the Agency, if required:

a) Registration of an individual entrepreneur, registration of amendments in the registered data and their termination within 1 working day (including, upon request through the citizen portal - my.gov.ge);

b) Preparation of an extract from the register of rights on immovable property within 1 working day, except for the electronically request via the Internet.

2. The persons referred in paragraph 1 of this article shall submit, together with the request, a document certifying that they are fully vaccinated against the new coronavirus (COVID-19). It is not necessary to submit this document if the information about the complete vaccination against the new coronavirus (COVID-19) can be verified by the appropriate electronic means. ”

Execution of the order was entrusted to the legal entities of public law operating in the field of governance of the Ministry of Justice of Georgia - the National Agency of Public Registry and the House of Justice.

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 040030000.22.027.017251

The Order came in force from 1st of September, 2021

The Resolution №450 of the Government of Georgia

On 7th of September, 2021, an amendments was made to the Resolution № 322 of the Government of Georgia of 23 May 2020 on the approval of the rules of isolation and 1. paragraph 6 of article 4 of the "Rules of Isolation and Quarantine" approved by the resolution was formed with the following redaction:

„6. From 25th of August, 2021, any type of entertainment, artistic, festival and cultural event (except theatrical and cinematographic nature) is prohibited. ”

2. Paragraphs 6² and 6³ were supplemented after paragraph 6¹ with the following content:

„6². The restriction provided in paragraph 6 of this Article does not apply to perform a concert on the territory of a hotel and the hotel must have the appropriate concert infrastructure and the concert shall be for hotel guests, in accordance with the Order on "approval of recommendations to prevent the spread of New Coronavirus (COVID-19) in the

workplace" of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia, Labor, Health and Social Affairs.

6³. It is allowed to organize sports events (competitions, gatherings) without spectators and participants in these events will be admitted 14 days after full vaccination or 72 hours prior to the event on the basis of a negative PCR test or 24 hours before a rapid antigen test.

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 470230000.10.003.023005

The Order came into force upon publication.

In the same resolution, on 15th of September, 2021, an amendment was made in the Resolution № 322 of the Government of Georgia of May 23, 2020 on the Approval of the Rules of Isolation and Quarantine and

1. paragraph 5³ with the following content was supplemented after paragraph 5² of Article 3 of the Rules of Isolation and Quarantine approved by the Resolution:

„5³. Attendance at any type of training, conference or seminar is permitted unless more than 6 months is elapsed after two weeks of the laboratory confirmation of the new coronavirus (COVID-19).”

2. Paragraph 6³ of article 4 was formed with the following redaction:

„6³. It is allowed to organize sports events (competitions, gatherings) without spectators and participants in these events will be admitted 14 days after full vaccination or for the next 6 months after two weeks of laboratory confirmation of a new coronavirus (COVID-19) or 72 hours prior to the event on the basis of a negative PCR test or 24 hours before a rapid antigen test.”

You can see the document of the above amendment at the link: <https://matsne.gov.ge> with the registration code: 470230000.10.003.023024

The Order came into force upon publication.

In the same resolution, on 30th of September, 2021, an amendment was made and accordingly to the Resolution № 322 of the Government of Georgia of May 23, 2020 on "Approval of the Rules of Isolation and Quarantine"

1. And paragraph 2¹ of Article 3 of the "Rules of Isolation and Quarantine" approved by the Resolution was formed with the following redaction:

„2¹. Institutions implementing early upbringing and educational services and/or pre-school education and educational services and/or school readiness programs will not carry out the educational process until 4th October, 2021, and from 4th of October, 2021, these institutions will fully restore the educational process.

2. Paragraphs 2³ and 2⁴ were formed with the following redaction:

„2³. For those educational programs in the field of health, which learning component involves contact with the patient, face-to-face clinical training, staffs and students will be admitted only if they meet one of the following conditions:

- a) Are fully vaccinated;
- b) Provides a negative PCR test once a week;
- c) No more than 6 months are passed since two weeks of laboratory confirmation of the new coronavirus (COVID-19).

2⁴. From 4th of October, 2021 across the country:

- a) In general educational institutions, the educational process will continue in the attendance format, in face-to-face mode;
- b) "professional and higher educational institutions are authorized to resume the educational process in attendance format, in face-to-face mode."

You can see the document of the above amendment at the link : <https://matsne.gov.ge> with the registration code : 470230000.10.003.023037

The Order came in force from 4th of October, 2021

The Resolution №7 of the Government of the Autonomous Republic of Adjara

On 30th of September, 2021 an amendment was made in the Resolution №7 of the Government of the Autonomous Republic of Adjara of July 31, 2020 on determining the rule of penalty for failure to fulfill the obligations under the contract and determining the rules for

giving additional terms for the fulfillment of obligations" and paragraph 3¹ with the following content was supplemented to the resolution:

„3¹. The rule established by the paragraph 1 of this resolution, in compliance with the deadlines defined by the same rule, shall apply to those investors who have relevant obligations under the protocol and/or agreement concluded with the authorities of the Autonomous Republic of Adjara or public law/non-entrepreneurial (non-commercial) legal entities established by them and apply to the Ministry with a request to change the terms/giving extra time (without penalty) of the protocol/contract concluded on the property transferred to them for use and/or to be released from the penalty imposed/to be imposed for non-fulfillment of any obligation. ”

You can see the document of the above amendment at the link : <https://matsne.gov.ge> with the registration code : 040090000.32.057.016350

The Order came into force upon publication.

Administrative Offences Code of Georgia

On 7th of September, 2021, the following amendments were made to the Administrative Offenses Code of Georgia:

1. Part 1¹ of the article 16 was formed with the following redaction:

„1¹. An employee of the Ministry of Internal Affairs of Georgia, an employee of the Ministry of Defense of Georgia and an employee of the State Security Service of Georgia shall be impose administratively liable for committing administrative offenses under articles 45, 45¹, 115¹, 116, 118⁴, 166 and 173 of this Code, as well as according to disciplinary regulations. ”

2. Part 2 of article 40 was formed with the following redaction:

„2. In the cases provided in the 7th-9th parts of Article 116 of this Code, 8th part of Article 119, 4th part of Article 120, 3rd part of Article 121 and 5th, 10th and 11th parts of Article 125, when a vehicle is damaged, the offender is identified and the relevant penalty is issued, based on the application submitted by the victim (vehicle owner / owner) and the expert assessment of the damaged vehicle issued by the authorized expert institution, the authorized person of the Patrol Police Department of the Ministry of Internal Affairs of Georgia shall make the relevant decision and on its basis issues an writ of execution, by which the offender will be

charged in favor of the victim (vehicle owner / owner) for the restoration of the damaged vehicle, and in case of failure of restoration - the obligation to reimburse the costs of its replacement. The amendment also affected the transfer of control of a vehicle to a person in a state of alcoholic, drug or psychotropic intoxication, driving under the influence of alcohol and other separate administrative offenses related to vehicle driving, driving a moped in a state of alcoholic, narcotic or psychotropic intoxication and other separate administrative offenses related to moped driving, to a district (city) court jurisdiction cases of administrative offenses.

You can see full version of the amendment to the above document at the link: <https://matsne.gov.ge> with the registration code : 020000000.05.001.020392

This Law will enter into force on the 60th day after its publication.

The Order №01-78/m Approving the List of Vital Services

On 7th of September, 2021, in accordance with Article 66 of the Organic Law of Georgia "Labor Code of Georgia"

"List of Vital Services" was approved: The order also defined that employees of a certain vital service have the right to strike only if they provide a minimum of service, which implies the fulfillment of minimum operational services in such a way as to meet the basic requirements of the customers and such services are provided safely and without interruption. The organization of the minimum service and other related matters (including the minimum number of employees of the service provider) shall be determined by negotiation and agreement between the parties of the collective labor dispute, which shall be concluded before sending a written notice to the Minister. In case of any disagreement on this issue, the dispute will be considered by the court.

You can see full version of the amendment to the above document at the link: <https://matsne.gov.ge> with the registration code: 470230000.22.035.016904

The Order came into force upon publication.

On approval of the scope, rules and conditions of implementation of accredited program of the Occupational Safety Specialist №01-25/m

On 13th of September, 2021, an amendment was made to the order 1301-25/m of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia, Labor, Health and Social Affairs on the approval of the scope, terms and conditions of implementation of the accredited program of the occupational safety specialist and annex № 1 approved by the order (scope, rules and conditions of implementation of accredited program of occupational safety specialist") was formed with the renewed redaction.

The renewed Annex №1 was defined operational sphere and scope, definition of terms, main directions of the training component of the accredited program, full accredited program, accredited program for low and medium risk objects, special program, organization of implementing trainings, fee for review of program accreditation application, obligations of the training implementing organization, organization/person who implements internship , standards of the training organization, rule for granting accreditation to the program, accreditation commission, secretariat of the accreditation commission, report and decision of the meeting of the accreditation commission, term of accreditation of the program and the procedure for its extension, requirements for the person for the training, certification of the person wishing to study, accredited program listener and its certification, monitoring of accredited program conditions, examination center, certificate, certificate attachment were determined with the mentioned redaction Annex №1.

You can see full version of the amendment to the above document at the link: <https://matsne.gov.ge> with the registration code: 470230000.22.035.016907

The Order came in force from 10th of October, 2021.

The Order №m-12 of the Head of the Accounting, Reporting and Auditing Supervision Service

On 22nd of September, 2021 the following amendment was made in the rule of compulsory execution of the individual administrative-legal act on imposing the fine approved by the

Order №m-12 of the Head of the Accounting, Reporting and Audit Supervision Service dated on 28th of October, 2020 on approval of the rule of enforcement of an individual administrative-legal act on the imposition of a fine and the form of the enforcement sheet:

1. Paragraph 2 of article 2 in appendix №1 approved by paragraph „a” of article 1 was formed with the following way:

„2. The offender must pay the fine within 30 days of its delivery. In case of failure in payment of fine within the mentioned period, a writ of execution will be issued by the service, which, together with the individual administrative-legal act on imposing a fine, shall be sent to the legal entity of public law operating in the field of governance of the Ministry of Justice of Georgia - the National Bureau of Enforcement within 7 (seven) working days.”

You can see the document of the above amendment at the link : <https://matsne.gov.ge> with the registration code: 070010040.64.076.016103

The Order came into force upon publication.

The Order №05 of the Chairman of the Georgian National Intellectual Property Center – Sakpatenti

On 13th of September, 2021 an amendment was made to the instruction approved by the order №05 of August 19, 2014 of the Chairman of Sakpatenti, a legal entity under public law - Georgian National Intellectual Property, on approval of the instruction on procedures for filing and registration of a trademark, which defines the definition of the terms, submission of the application, documents related to the application, setting the filing date of the application, correspondence with Sakpatenti, filling, amending, correcting and clarifying the application materials, splitting the application, suspending the application review, request for a certified copy of the application, termination of proceedings on the application, resumption of proceedings on the application, etc.

You can see the document of the above amendment fully at the link: <https://matsne.gov.ge> with the registration code: 050050000.48.065.016030

The Order came into force upon publication.