



**GEORGIA**

**Pocket  
Tax Book**

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Dear Readers,

We are pleased to introduce our updated publication of Pocket Tax Book. The information it contains is based on taxation law and practice in force starting as of January 2011 and covers all the main aspects of the tax system in Georgia.

We are dedicated to develop the tax environment that facilitates the inflow of foreign investments into Georgia. Having this in mind, we have recently undertaken radical changes to the tax and customs legislation of Georgia, and introduced a new Tax Code that is to be in force starting 1 January 2011.

According to the World Bank, Georgia remains one of the most active reformers in the world and it has the lowest total tax burden in Central and Eastern Europe, and the 7th lowest in the world. According to the Forbes Tax Misery and Reform Index of 2010, Georgia ranks 4th best in the world in terms of tax burden.

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The Ministry of Finance of Georgia

# GEORGIA



**Official name:** Georgia

**Local name:** Sak'art'velo

**Location & Size:** Georgia is situated

at the crossroads of Europe and Asia

About the size of Switzerland it occupies 69,700 sq. km between

the Black and Caspian Seas. It borders Turkey, Russia, Armenia, and Azerbaijan

**Government:** Presidential Parliamentary Democracy

**Language:** Georgian, which is over 2,000 years old and has its own alphabet

**Population:** 4.4 million

**Capital:** Tbilisi, 1.2 million

## Investment Incentives

The Government of Georgia has been reforming since 2004 to offer an investment friendly environment to investors. By undertaking numerous economic reforms the country has positioned itself as an attractive destination for foreign investments. Georgia offers the investors:

**Attractive Destination for Foreign Business.** By continuous improvement of the business climate Georgia has ranked 11th out of 183 economies in terms of ease of doing business in World Bank & IFC's 'Doing Business Report'. In addition, Doing Business 2011 ranked Georgia as the world's top reformer country during the last five years. Georgia has been assigned Standard & Poor's rating B +, ranked 26th among the "most free" economies according to the Economic Freedom Index of Heritage Foundation, and 37th according to the World Economic Forum.

**Stable Macroeconomic Environment.** Georgia has successfully overcome the global financial crises and is returning back to a stable growth condition after a period of reduced GDP.

**Strategic Geographic Location.** Georgia is pleased to emerge and serve as a physical and political bridge connecting European and Western markets to the vast Caspian/Central Asian potential, through an ongoing implementation of several major energy and transport projects. Four existing sea ports, upgraded railway infrastructure, three international airports and a highway of international standards passing from the eastern border of Georgia to the Black Sea, are creating the fastest transit opportunity for goods from Central Asia to Europe, and vice versa.

**Low Taxes.** Only six taxes are left in Georgia, at low rates. Tax free regimes may also be established here. Low tax rates together with the tax exemptions make Georgia

one of the most attractive tax jurisdictions in the world. Currently Georgia has established double tax treaties with a number of countries, and is planning to extend this list annually.

**Beneficial Tax Regimes.** Georgian tax legislation considers these benefits to be unique opportunities, and extends options to manufacturers to invest under the following Tax Free Regimes:

### ***Free Industrial Zones***

The Law of Georgia on Free Industrial Zones and the Tax Code of Georgia give manufacturers a unique opportunity to process, produce and export goods with a minimum tax burden. With Georgian Free Trade Agreements, one can export goods free of trade barriers to global markets consisting of over 300 million consumers. Thousands of goods can be exported from Georgia to the European Union (the EU) market, free of trade barriers under the GSP+ arrangements.

### ***Free Warehouse Company***

Georgia's goal to provide the shortest and fastest transit route between Europe and Central Asia, is also ensured by relevant legislation. The Free Warehouse Company, from a taxation perspective, is designed as an integral logistical unit for international transit companies. The benefits include:

- ▶ Exemption from corporate income tax applied to income received from re-exporting goods from free warehouses via the Free Warehouse Company;
- ▶ Exemption from VAT on the supply of goods by a Free Warehouse Company to a VAT payer in a free warehouse.

The Free Warehouse Company categorization can be effectively used by international cargo companies, large regional network distributors, and any stakeholder desiring to transport goods from Central Asia to global economic markets, or vice versa, in the fastest and least costly way.

### ***International Financial Company***

Georgian tax legislation offers another unique opportunity to serve offshore companies in the most efficient and least costly way. International Financial Company, a financial institution established in accordance with Georgian tax legislation, carries out most of its services with parties outside of Georgia. International Financial Company is not required to obtain a license from the National Bank of Georgia. The activities of International Financial Companies are tax exempt. Corporate income tax exemptions apply to:

- ▶ Profits received from financial services provided by an International Financial Company;
- ▶ Gains from sale of securities issued by an International Financial Company;
- ▶ Dividends paid by an International Financial Company.

Businesses involved in the following activities can effectively use the status and privileges of an International Financial Company:

- ▶ Wealth management;
- ▶ Asset management;
- ▶ Financial intermediation activities;
- ▶ Other similar activities.

**Preferential Trade Regimes.** All the above mentioned benefits are leveraged with Georgia's preferential trade regimes with its major trading partner countries. Georgia benefits from Most Favoured Nation Regime (MFNR) with WTO members, and in addition from GSP with the USA, Canada, Switzerland and Japan. Georgia is beneficiary of a GSP+ trading regime with Turkey and the EU. Georgia expects to enter into the Free Trade Agreement with the EU in the near future.

**Liberal Labour Code.** Georgia is a member of the International Labour Organization and has one of the most liberal labour codes in the world. This guarantees complete freedom of employers and employees to contract.

**Simplified Licensing Procedures.** The number of licences and permits required in Georgia are at minimum, and rules for obtaining them are simple.

**Dynamic Banking Sector.** In light of the recent global financial crises it became obvious that Georgia has a strong and fast growing banking sector. Many banks try to list their shares on recognized foreign stock exchanges, which contributes even further to the sector development.

**Corruption-Free Environment.** The corruption level has significantly decreased in Georgia during recent years; however, the Government of Georgia continues to implement anti-corruption measures to reduce it even further.

**New Tax Code.** A new Tax Code comes into force starting 1 January 2011. It is a unified document of the old tax and customs codes, the latter will be abolished from this point forward. The new Tax Code aims to increase confidence towards the Georgian tax system and enhance trust in the Georgian tax authorities, by improving communication between taxpayers and the tax authorities, by protecting the taxpayers' rights, by making administration more efficient, and by harmonizing the Georgian laws with the best international tax practices and EU directives.

The new Tax Code offers low tax rates on existing few taxes, or total exemption. Withholding taxes on interest and dividends will be annulled by 2014. Individuals will also benefit by 2014 from the gradually reduced personal income tax rate decreasing to 15%. Micro and Small Business status shall reduce overall administrative and tax burden on individual taxpayers.

The simplified rules for obtaining a residency status of Georgia is an opportunity for "high net worth" individuals, as they can become Georgian residents without actual presence in Georgia.

Extended filing periods, automatic refunds, and simplified taxation on imports comprise the constantly expanding list of benefits offered to taxpayers. Income and gain received from listed securities and Government bonds have been exempted from taxation for both corporate and individual taxpayers. Noteworthy, that Georgia already started convergence to European tax standards, in that it has recognized the technical regulations of the Organization for Economic Cooperation and Development (OECD), and has introduced the generally accepted transfer pricing rules within the new Tax Code. This fact will consequently promote the development of the business environment and cross-border trading.

The tax administration system has been simplified and advanced, offering a wide range of E-services to taxpayers. Communication between a taxpayer and the tax authorities will be improved by the newly introduced Advance Tax Ruling, Private Tax Agent, and Tax Deal mechanisms.

The new function of a Tax Ombudsman secures the protection of taxpayers' rights and takes the responsibility to facilitate a healthy tax environment in Georgia, in this respect.

# Table of Contents

|                                                                      |    |
|----------------------------------------------------------------------|----|
| Abbreviations.....                                                   | 9  |
| 1. Tax Rates at a Glance.....                                        | 10 |
| 1.1. Standard Tax Rates.....                                         | 10 |
| 1.2. Tax Rates for an International Financial Company.....           | 11 |
| 1.3. Tax Rates for a Free Warehouse Company.....                     | 12 |
| 1.4. Tax Rates for a Free Industrial Zone Company.....               | 12 |
| 2. Individuals.....                                                  | 13 |
| 2.1. Personal Income Tax.....                                        | 13 |
| 2.1.1. General Principles.....                                       | 13 |
| 2.1.2. High Net Worth Individuals Becoming Residents of Georgia..... | 14 |
| 2.1.3. Income.....                                                   | 14 |
| 2.1.4. Deductible Expenses.....                                      | 15 |
| 2.1.5. Allowances and Thresholds.....                                | 15 |
| 2.1.6. Losses.....                                                   | 15 |
| 2.1.7. Exemptions.....                                               | 16 |
| 2.1.8. Compliance.....                                               | 17 |
| 2.2. Property Tax.....                                               | 18 |
| 2.2.1. Taxable Assets.....                                           | 18 |
| 2.2.2. Tax Rates.....                                                | 18 |
| 2.2.3. Exemptions.....                                               | 19 |
| 2.2.4. Compliance.....                                               | 19 |
| 2.3. Special Tax Regimes.....                                        | 19 |
| 2.3.1. General Principles.....                                       | 19 |
| 2.3.2. Micro Business.....                                           | 20 |
| 2.3.3. Small Business.....                                           | 20 |
| 2.4. Partnerships.....                                               | 22 |
| 3. Companies.....                                                    | 23 |
| 3.1. Corporate Income Tax.....                                       | 23 |
| 3.1.1. General Principles.....                                       | 23 |
| 3.1.2. Tax Base.....                                                 | 23 |
| 3.1.3. Exemptions.....                                               | 24 |
| 3.1.4. Deductible Expenses.....                                      | 25 |
| 3.1.5. Non-Deductible Expenses.....                                  | 25 |
| 3.1.6. Depreciation / Amortization.....                              | 26 |
| 3.1.7. Taxation of Dividends.....                                    | 28 |
| 3.1.8. Taxation of Interest.....                                     | 28 |
| 3.1.9. Taxation of Royalties.....                                    | 29 |
| 3.1.10. Taxation of Rental Income.....                               | 29 |
| 3.1.11. Thin Capitalisation Rules.....                               | 29 |
| 3.1.12. Related Party Transactions.....                              | 29 |
| 3.1.13. Transfer Pricing Rules.....                                  | 30 |

|             |                                                                                 |           |
|-------------|---------------------------------------------------------------------------------|-----------|
| 3.1.14.     | Losses .....                                                                    | 30        |
| 3.1.15.     | Foreign Tax Relief .....                                                        | 31        |
| 3.1.16.     | Compliance .....                                                                | 31        |
| 3.1.17.     | Corporate Income Taxation for Foreign Companies .....                           | 31        |
| 3.1.17.1.   | General Principles .....                                                        | 31        |
| 3.1.17.2.   | Permanent Establishment .....                                                   | 32        |
| 3.1.17.3.   | Withholding Taxation .....                                                      | 33        |
| <b>3.2.</b> | <b>Value Added Tax (VAT) .....</b>                                              | <b>34</b> |
| 3.2.1.      | Taxable Transactions .....                                                      | 34        |
| 3.2.2.      | Place of Supply .....                                                           | 34        |
| 3.2.3.      | Invoicing .....                                                                 | 35        |
| 3.2.4.      | VAT Registration .....                                                          | 35        |
| 3.2.5.      | VAT Deregistration .....                                                        | 35        |
| 3.2.6.      | VAT Rates .....                                                                 | 36        |
| 3.2.7.      | Exempt Supplies .....                                                           | 36        |
| 3.2.8.      | VAT Recovery .....                                                              | 38        |
| 3.2.9.      | Special Rule for VAT Taxation of Import .....                                   | 39        |
| 3.2.10.     | Refund of VAT Paid on Goods Purchased by<br>Citizens of Foreign Countries ..... | 39        |
| 3.2.11.     | Reverse-Charge VAT .....                                                        | 39        |
| 3.2.12.     | Compliance .....                                                                | 40        |
| <b>3.3.</b> | <b>Excise Tax .....</b>                                                         | <b>40</b> |
| 3.3.1.      | Taxpayers .....                                                                 | 40        |
| 3.3.2.      | Taxable Transactions .....                                                      | 40        |
| 3.3.3.      | Tax Rates .....                                                                 | 41        |
| 3.3.4.      | Exempt Supplies .....                                                           | 41        |
| 3.3.5.      | Invoicing .....                                                                 | 42        |
| 3.3.6.      | Excise Tax Recovery .....                                                       | 42        |
| 3.3.7.      | Compliance .....                                                                | 42        |
| 3.3.8.      | Excise Stamps .....                                                             | 43        |
| <b>3.4.</b> | <b>Import Tax .....</b>                                                         | <b>43</b> |
| 3.4.1.      | General Principles .....                                                        | 43        |
| 3.4.2.      | Tax Rates .....                                                                 | 43        |
| 3.4.3.      | Exempt Goods .....                                                              | 44        |
| <b>3.5.</b> | <b>Property Tax .....</b>                                                       | <b>44</b> |
| 3.5.1.      | Taxpayers and Taxable Assets .....                                              | 44        |
| 3.5.2.      | Tax Rates .....                                                                 | 45        |
| 3.5.3.      | Exemptions .....                                                                | 45        |
| 3.5.4.      | Compliance .....                                                                | 46        |
| <b>3.6.</b> | <b>Beneficial Tax Regimes .....</b>                                             | <b>46</b> |
| 3.6.1.      | General Principles .....                                                        | 46        |
| 3.6.2.      | International Financial Company .....                                           | 46        |
| 3.6.3.      | Free Warehouse Company .....                                                    | 48        |

|                      |                                                                     |           |
|----------------------|---------------------------------------------------------------------|-----------|
| 3.6.4.               | Free Industrial Zone Company .....                                  | 49        |
| 3.6.5.               | Free Tourist Zone at the Black Sea Shore .....                      | 51        |
| <b>4.</b>            | <b>Tax Administration .....</b>                                     | <b>52</b> |
| 4.1.                 | Tax Assessments .....                                               | 52        |
| 4.2.                 | Statute of Limitation .....                                         | 52        |
| 4.3.                 | Late Payment Interest and Penalties .....                           | 52        |
| 4.4.                 | Filing of Tax Returns .....                                         | 52        |
| 4.5.                 | Measures to Ensure Fulfilment of Tax Liabilities .....              | 53        |
| 4.6.                 | Tax Control Procedures .....                                        | 53        |
| 4.6.1                | Current Tax Control Procedures .....                                | 53        |
| 4.6.2                | Tax Audit .....                                                     | 54        |
| 4.7.                 | Tax Deal .....                                                      | 55        |
| 4.8.                 | Tax Dispute Resolution .....                                        | 55        |
| 4.9.                 | Tax Ombudsman .....                                                 | 56        |
| 4.10.                | Advance Tax Ruling .....                                            | 57        |
| 4.11.                | Private Tax Agent .....                                             | 57        |
| 4.12.                | E-services .....                                                    | 57        |
| <b>5.</b>            | <b>Movement of Goods in the Economic Territory of Georgia .....</b> | <b>59</b> |
| 5.1.                 | State Control Procedures .....                                      | 59        |
| 5.2.                 | General Declaration .....                                           | 59        |
| 5.3.                 | Formalization Procedures .....                                      | 60        |
| 5.4.                 | Tariff Value of Goods .....                                         | 61        |
| 5.5.                 | Operations on Goods .....                                           | 61        |
| 5.6.                 | Import and Export Duties .....                                      | 62        |
| 5.7.                 | Returned Goods .....                                                | 62        |
| 5.8.                 | Simplified Rules .....                                              | 62        |
| <b>6.</b>            | <b>Agreements for the Avoidance of Double Taxation .....</b>        | <b>63</b> |
| <b>7.</b>            | <b>Establishing a Legal Presence in Georgia .....</b>               | <b>64</b> |
| <b>Appendix</b>      | <b>.....</b>                                                        | <b>66</b> |
| <b>Tables</b>        | <b>.....</b>                                                        | <b>66</b> |
|                      | Tax Calendar .....                                                  | 66        |
|                      | Fixed Assets Depreciation Rates .....                               | 67        |
|                      | Excise Tax Rates .....                                              | 67        |
|                      | Double Tax Treaty Withholding Tax Rates .....                       | 70        |
| <b>Illustrations</b> | <b>.....</b>                                                        | <b>73</b> |
|                      | Tax Problems and Solutions .....                                    | 73        |
|                      | Case 1: Personal Income Tax .....                                   | 73        |
|                      | Case 2: Property Tax for Individuals .....                          | 74        |
|                      | Case 3: Corporate Income Tax .....                                  | 75        |
|                      | Case 4: Value Added Tax .....                                       | 76        |
|                      | Case 5: Excise Tax .....                                            | 77        |
|                      | Case 6: Import Tax .....                                            | 77        |
|                      | Case 7: Property Tax for Companies .....                            | 78        |
| <b>Contacts</b>      | <b>.....</b>                                                        | <b>79</b> |

## Abbreviations

|       |                                                                      |
|-------|----------------------------------------------------------------------|
| BO    | Branch Office                                                        |
| DRC   | Disputes Resolution Council under the Ministry of Finance of Georgia |
| EU    | European Union                                                       |
| EUR   | Euro                                                                 |
| GEL   | Georgian Lari                                                        |
| GDP   | Gross Domestic Product                                               |
| GP    | General Partnership                                                  |
| GSP   | Generalized System of Preferences                                    |
| GTA   | Georgian Tax Authorities                                             |
| ID    | Identification Number                                                |
| IE    | Individual Enterprise                                                |
| IFC   | International Financial Corporation                                  |
| IFRS  | International Financial Reporting Standards                          |
| JSC   | Joint Stock Company                                                  |
| LLC   | Limited Liability Company                                            |
| LP    | Limited Partnership                                                  |
| MFNR  | Most Favoured Nation Regime                                          |
| NBG   | National Bank of Georgia                                             |
| NBV   | Net Book Value                                                       |
| OECD  | Organization for Economic Cooperation and Development                |
| PE    | Permanent Establishment                                              |
| RCVAT | Reverse Charge Value Added Tax                                       |
| RS    | Revenue Services                                                     |
| TCG   | Tax Code of Georgia                                                  |
| USA   | United States of America                                             |
| USD   | United States Dollar                                                 |
| VAT   | Value Added Tax                                                      |
| WTO   | World Trade Organization                                             |

# 1. Tax Rates at a Glance

There are only six taxes in Georgia, of which five (Personal Income Tax, Corporate Income Tax, Value Added Tax, Excise Tax, and Import Tax) are state-wide, and one (Property Tax) is a local tax. There are no capital gains, inheritance, wealth, property transfer, social, branch remittance, or other taxes imposed in Georgia.

## 1.1 Standard Tax Rates

|                                        | 2011     | 2012     | 2013     | 2014     |
|----------------------------------------|----------|----------|----------|----------|
| Personal Income Tax                    | 20%      | 20%      | 18%      | 15       |
| Personal Income Tax for Micro Business | Exempt   | Exempt   | Exempt   | Exempt   |
| Personal Income Tax for Small Business | 3% or 5% | 3% or 5% | 3% or 5% | 3% or 5% |

|                      |     |
|----------------------|-----|
| Corporate income tax | 15% |
|----------------------|-----|

### Withholding tax for companies and individuals

|                                                                                                                      |                  |
|----------------------------------------------------------------------------------------------------------------------|------------------|
| Dividends paid to individuals and non-residents <sup>i</sup>                                                         | 5% (2014 - 0%)   |
| Dividends paid to resident companies                                                                                 | exempt           |
| Dividends paid on free floating securities <sup>1</sup>                                                              | exempt           |
| Dividends paid by International Financial Company                                                                    | exempt           |
| Dividends paid by International Company                                                                              | exempt           |
| Interest paid <sup>ii</sup>                                                                                          | 5% (2014 - 0%)   |
| Interest paid to resident banks                                                                                      | exempt           |
| Interest paid by licensed financial institutes                                                                       | exempt           |
| Interest paid on free floating securities                                                                            | exempt           |
| Interests paid by International Company                                                                              | exempt           |
| Interest paid on debt securities issued by Georgian legal entities and listed on a recognized foreign stock exchange | exempt           |
| Royalties paid to resident individuals <sup>iii</sup>                                                                | 20% (2014 - 15%) |
| Rental income (excluding finance lease rentals) paid to resident individuals <sup>iv</sup>                           | 20% (2014 - 15%) |
| Management fees paid                                                                                                 | 15%              |
| Payment of income from international transport or international communications                                       | 10%              |
| Insurance premiums paid to non-residents                                                                             | exempt           |
| Finance lease income paid to non-residents                                                                           | exempt           |
| Payment of income from oil and gas operations                                                                        | 4%               |
| Payments of other Georgian source income to non-residents not connected to their PE in Georgia                       | 15%              |

|                           |               |
|---------------------------|---------------|
| Value Added Tax           | 18%           |
| Excise Tax                | Varies        |
| Import Tax                | 0%, 5% or 12% |
| Property Tax - Corporate  | Up to 1%      |
| Property Tax - Individual | Up to 1%      |
| Property Tax - Land       | Varies        |

#### Other Information

|                                                                         |                                                                                                    |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Carry back of losses                                                    | 0 years                                                                                            |
| Carry forward of losses<br>(for companies and individual entrepreneurs) | 5 years or 10 years<br>(in the latter case the statute of limitation increases from 6 to 11 years) |
| Carry forward of losses<br>(for Small Business)                         | 0 years                                                                                            |

## 1.2 Tax Rates for an International Financial Company

|                                                                                                                                    |        |
|------------------------------------------------------------------------------------------------------------------------------------|--------|
| Corporate Income Tax (financial operations and/or financial services, gain from sale of securities issued by non-resident persons) | exempt |
| Value Added Tax (financial operations and/or financial services)                                                                   | exempt |

#### Other Information

|                         |         |
|-------------------------|---------|
| Carry back of losses    | 0 years |
| Carry forward of losses | 0 years |

- i. Dividends withholding tax rate will be reduced from 5% to 3% by 1 January 2013 and will be annulled starting 1 January 2014
- ii. Interest withholding tax rate will be annulled starting 1 January 2014
- iii. Royalties withholding tax rate will be reduced from 20% to 18% by 1 January 2013 and further to 15% starting 1 January 2014
- iv. Rental income withholding tax rate will be reduced from 20% to 18% by 1 January 2013 and further to 15% starting 1 January 2014

1 Debt or equity securities listed on stock exchange with free float rate in excess of 25% as of 31 December of the current and preceding reporting year, pursuant to the information provided by the issuer of these securities to the stock exchange

### 1.3 Tax Rates for a Free Warehouse Company

|                                                                    |        |
|--------------------------------------------------------------------|--------|
| Corporate Income Tax (re-exporting of goods from Free Warehouse)   | exempt |
| Value Added Tax (supply of goods to a VAT payer in Free Warehouse) | exempt |
| Import Tax                                                         | exempt |

#### Other Information

|                         |         |
|-------------------------|---------|
| Carry back of losses    | 0 years |
| Carry forward of losses | 0 years |

### 1.4 Tax Rates for a Free Industrial Zone Company

|                                                      |                     |
|------------------------------------------------------|---------------------|
| Corporate Income Tax                                 | exempt <sup>i</sup> |
| Value Added Tax (supply within Free Industrial Zone) | exempt              |
| Import Tax (goods produced in Free Industrial Zone)  | exempt              |
| Property Tax (including on land)                     | exempt              |

#### Other Information

|                         |         |
|-------------------------|---------|
| Carry back of losses    | 0 years |
| Carry forward of losses | 0 years |

i. Corporate income tax exemption applies only to a Free Industrial Zone Company that has obtained the status of an International Company

## 2. Individuals

### 2.1 Personal Income Tax

#### 2.1.1 General Principles

Individuals, who are resident in Georgia for tax purposes, pay Georgian personal income tax on their worldwide income under Georgian tax law. However, as outlined below (see section "Exemptions"), income received from foreign sources is exempt from personal income taxation.

Individuals who are not resident in Georgia for tax purposes are subject to Georgian tax only on income received from the source in Georgia.

Individuals are considered resident in Georgia for tax purposes if they:

- ▶ are actually present in Georgia for 183 or more cumulative days in any period of 12 consecutive calendar months ending in the tax year;
- ▶ are in Georgian State Service abroad during the tax year.

The time of actual presence constitutes the time being in Georgia, and the time spent abroad, for medical treatment, vacation, business trip and/or educational purposes.

Individuals in the above categories are not resident in Georgia for tax purposes if they:

- ▶ have diplomatic or consulate status or are family members of such individuals ;
- ▶ are not citizens of Georgia, but are staff members of an international not-for-profit entity under Georgian international agreements, or in the State Service of a foreign country, and/or are family members of such individuals;
- ▶ are moving from one foreign country to another through the territory of Georgia;
- ▶ reside in Georgia for medical treatment or vacation/tourism purposes only.

The status of residency or non-residency is determined for each tax year. Days based on which an individual was qualified as a tax resident for the previous tax year are not taken into account in determining residency for the current tax year.

The tax year is a calendar year.

Tax rate is a flat 20% that will be reduced to 18% starting 1 January 2013, and further to 15% starting 1 January 2014. For withholding taxation rates for individuals see section "Tax Rates at a Glance". Those rates are applied on income received from sources in Georgia without expense deduction.

Individuals starting economic activities are required to register with the GTA prior their start-up and to obtain a Tax ID.

Georgian citizen non-entrepreneur individuals may use Personal ID while declaring and paying taxes without prior registration. They are registered for tax, based on the information provided in filed tax returns and/or tax payment orders presented to the bank. However, foreign citizen non-entrepreneur individuals have to register with the GTA prior to filing their annual personal income tax returns, and obtain a Tax ID.

### **2.1.2 High Net Worth Individuals Becoming Residents of Georgia**

There is a special rule established for high net worth individuals to become residents of Georgia, without satisfying the above outlined general residency criteria.

A "high net worth" individual is an individual that holds property with a value in excess of GEL 3 million, or who has received an annual income in excess of GEL 200 000, for the last 3 years.

A "high net worth" individual can become a tax resident of Georgia if:

- ▶ he/she holds a residence permit or a local Personal ID card; or
- ▶ he/she proves that his/her Georgian source income amounts to GEL 25 000 or more per tax year.

Provided that the above conditions hold, tax residency for a tax year is granted to "high net worth" individuals by the Minister of Finance of Georgia (the Minister) within 9 days of submission of application. No actual presence in Georgia is required.

### **2.1.3 Income**

For Georgian personal income tax purposes, income is divided into the following categories:

- ▶ Income from employment;
- ▶ Income from economic activities not related to employment;
- ▶ Other income not related to employment and economic activities.

#### **Income from Employment**

Taxable income from employment includes all remuneration received from employment, including benefits in kind (non-monetary benefits). Non-monetary benefits are included in gross income at their market price, reduced by any payments made by employee to employer for those benefits.

Taxable benefits may include:

- ▶ Private use of employer owned or provided car;
- ▶ Interest free or low interest loan from the employer;
- ▶ Receipt of goods or services from the employer;
- ▶ Receipt of housing and rental allowances from the employer;
- ▶ Reimbursement of personal expenses by the employer;
- ▶ Life or health insurance plans paid by the employer for the employee;
- ▶ Business trip allowances paid by the employer in excess of the statutory limits.

Remuneration and benefits paid by a Georgian employer are generally taxed through periodic (monthly or quarterly) payroll withholding taxation.

## **Income from Economic Activities**

Income from economic activities include:

- ▶ Income received from supply of goods/services;
- ▶ Realized capital gains (unrealized gain is not subject to taxation);
- ▶ Income received as a result of limiting economic activities or close of an enterprise;
- ▶ Income received from sale of fixed assets;
- ▶ Dividends, royalty and interest income except for interest received by individuals on the funds existing on accounts at the banks;
- ▶ Rental and leasing income;
- ▶ Benefit received as a result of debt write off, etc.

In case of gratuitous supplies the income is measured at market prices.

## **Other Income not related to Employment and Economic Activities**

Other income includes any type of income not classified as either income from employment or income from economic activities. This may include any property or benefit received in-kind from other parties. Such benefits are included in gross income at their market prices, reduced by any payments made by the recipient to other parties for those property or benefits, similarly to in-kind benefits received from employer.

### ***2.1.4 Deductible Expenses***

To arrive at a tax base, taxpayers are allowed to deduct all expenses contributing to generation of taxable income except for non-deductible or partially deductible expenses. Business deductions are structured similarly as deductions for the purpose of corporate income tax (see section “Corporate Income Tax”).

Expenses incurred for the receipt of employment income cannot be deducted from an individual's taxable income.

### ***2.1.5 Allowances and Thresholds***

For personal income tax there are no personal allowances. No marital status, dependency or other types of allowances are taken into consideration when calculating the taxable income of an individual. Similarly, there are no threshold limits, e.g. thresholds for non-taxable income, etc.

### ***2.1.6 Losses***

Individual entrepreneurs (individuals who are engaged in regular trading/commercial activities) may carry forward operating losses for up to 5 years against future operating profits. A taxpayer can elect a 10-year loss carry forward period, where the statute of limitation is increased from 6 to 11 years. A 10-year carry forward period can still be changed to a 5-year carry forward period when the losses carried forward are used up.

Individual entrepreneurs can carry forward capital losses up to 5 years (or 10 years) only against income from a similar business activity.

Non-entrepreneur individuals can offset losses from sale of assets against gains received, from sale of the same type of assets in the current tax year. No carry forward of the loss is possible.

Losses may not be carried back.

### **2.1.7 Exemptions**

Income exempted from personal income tax includes:

- ▶ Gain received from disposal of apartment (house) together with the attached land plot held for more than 2 years;
- ▶ Gain received from disposal of assets held for more than 2 years and not used for economic activities;
- ▶ Gain received from disposal of vehicles held for more than 6 months;
- ▶ Gain received on transfer of real estate in exchange for a partner's share held for more than 2 years;
- ▶ Grants, state stipends, state compensations, state scholarships, etc;
- ▶ Alimony;
- ▶ Property inherited or gifted by I and II level legatees;
- ▶ Property with the value up to GEL 1,000 gifted, except for property gifted by employer;
- ▶ Gain received from sale of securities issued by International Financial Company;
- ▶ Gain received from the sale of free floating securities;
- ▶ Georgian source income of a non-resident received from insurance, re-insurance and finance lease services, not related to his/her PE in Georgia;
- ▶ Interest income and gain received from the sale of Government and/or NBG bonds, and interest accrued on accounts with the NBG;
- ▶ Income (including benefits) of resident individuals received from foreign sources.
- ▶ Income received by non-resident individuals from employment in the territory of Georgia, up to 30 calendar days throughout a tax year paid by non-resident employers, provided that salary expenses are not attributable to the PEs of non-residents in Georgia, irrespective of whether the payment is made by the PE or not;
- ▶ Income received by non-resident individuals from employment at foreign diplomatic and equal representative offices;
- ▶ Up to 1 January 2014 income received from initial supply of agricultural products before their reproduction (i.e. change of code) and salary payments to employees, if such income does not exceed GEL 200,000 during a calendar year;
- ▶ Lottery winnings up to GEL 1,000;
- ▶ Income received from transfer of property by the partnership to its members provided that by the moment of the transfer (i) the members of the partnership are

individuals only; (ii) the members have not changed since the establishment of the partnership and (iii) the partnership is not a VAT payer (for taxation of Partnerships see section "Partnerships").

### **2.1.8 Compliance**

All individuals who received income in Georgia not taxed at source must file an annual personal income tax return either personally, electronically (see section "E-services") or send it via insured mail and pay tax either via bank or e-paying system (see section "E-services") by 1st April of the year following a reporting year. A tax return should be submitted to the GTA in accordance with the individual's place of residence.

The submission date can be extended for up to a further three months if the GTA are notified before the deadline expires and the individual has made the advance tax payments (or has no obligation to make advance tax payments) due for the current tax year (see section "Filing of Tax Returns"). Personal income tax return can be amended within the statute of limitation (see section "Statute of Limitation").

Personal income tax is paid directly by the liable taxpayer. Alternatively, the tax is withheld by the payer of the income (i.e. tax agent) except for non-entrepreneur individuals, at the moment of payment for the following types of income: employment (salary) income, interest income, dividend income, royalty income, operating lease income, business income of individuals not registered for tax, gambling winnings, etc (for the withholding taxation rates see section "Tax Rates at a Glance").

A Free Industrial Zone Company is exempt from the obligation to withhold tax at the source on salary payments to resident individuals (for taxation of Free Industrial Zone Company, see section "Beneficial Tax Regimes").

A non-resident person making salary payments that are not attributable to its PE in Georgia is also exempt from the obligation to withhold tax at the source of payment. In this case the employee himself/herself may calculate the tax liability, file the annual tax return, and pay tax.

Tax agents who withhold personal income tax submit monthly returns. Certain tax agents submit quarterly returns according to the resolution of the Government of Georgia by the 15th of a month following the reporting period, showing income paid and taxes withheld in this reporting period. From 1 January 2013 all tax agents will file quarterly tax returns. Further, a tax agent files an annual form including the information about the income recipients, income paid, and taxes withheld within 30 calendar days following the tax year.

Individuals engaged in economic activities in Georgia must make advance personal income tax payments. Each payment is equal to 25% of the income tax liability for the preceding tax year. Due dates for the payments are 15 May, 15 July, 15 September and 15 December. Advance payments of tax are applied against the income tax liability for the current tax year. Balancing payment should be made before 1 April of the subsequent tax year. If total advance payments exceed the tax due for the tax year, the excess is applied against any outstanding liabilities for other taxes, or is refunded.

Taxpayers who did not have taxable income during the previous tax year are not required to make advance tax payments during the current tax year.

Individuals who are not obliged to submit a personal income tax return may do so voluntarily to claim overpaid personal income tax.

## 2.2 Property Tax

### 2.2.1 Taxable Assets

Taxable assets of individuals include owned immovable property (including construction in progress, buildings or their parts), yachts, motor boats, planes, helicopters and assets received from non-resident under finance lease.

Individuals conducting economic activities in Georgia are subject to property tax on fixed assets, non-assembled equipment, intangible assets listed on their balance sheet, and property leased out under finance lease.

### 2.2.2 Tax Rates

Annual property tax rate for an individual on taxable property (excluding land) varies according to the annual family income of the individual.

For property taxation purposes annual family income comprises all income including benefits and exempt income, but excluding:

- ▶ value of property inherited, gifted or received upon divorce from family members;
- ▶ gain received from disposal of an apartment (house) held for more than 2 years;

Annual income of Georgian citizen, but not a tax resident of Georgia, will include income received from Georgian sources only.

The annual property tax rates are applied to the market values of taxable property and are set as follows:

| Annual Family Income |                   | Property Tax Rate |
|----------------------|-------------------|-------------------|
| Exceeding GEL        | Not Exceeding GEL | %                 |
|                      | 100 000           | 0.05 to 0.2       |
| 100 000              |                   | 0.8 to 1          |

As property tax is a local tax, the exact rate within the above range is fixed by the local government where the property is located.

Annual property tax rate for agricultural land varies according to the administrative unit and the land quality. The annual base tax rate per 1 hectare varies from GEL 1.5 to GEL 100. The exact rate for land is fixed by the local government up to 150 % of the above annual base tax rate.

The annual base tax rate for non-agricultural land is GEL 0.24 per 1 square meter, which is further adjusted by the territorial coefficient up to 1.5 fixed by the local government.

### **2.2.3 Exemptions**

Certain types of assets, except for land plots transferred under operating lease, usufruct or any similar arrangement, are exempt from property tax, such as:

- ▶ Property (except for land) belonging to an individual with annual family income up to GEL 40,000 for a year preceding the current calendar year;
- ▶ Portion of co-owned property (i.e. land plot) at the apartment house with an area up to 50 square meters;
- ▶ Agricultural land plots received by individuals and requiring cultivation for 5 years;
- ▶ Agricultural land plots up to 5 hectares in the ownership of an individual as of 1 March 2004;
- ▶ Property located in Free Industrial Zones;
- ▶ Biological assets (animals and plants), etc.

### **2.2.4 Compliance**

Individuals submit annual property tax returns either personally, electronically (see section “E-services”) or send it via insured mail no later than 1st May of a calendar year. The submission date can be extended for up to a further three months if the GTA are notified before the deadline expires (see section “Filing of Tax Returns”). Property tax returns can be amended within the statute of limitation (see section “Statute of Limitation”).

The data reflected in the tax return on taxable property is according to the preceding tax year and on taxable land - according to the current tax year.

Individuals pay property tax either via bank or e-paying system (see section “E-services”) not later than 15 November of a calendar year.

Filing of property tax return is not required if:

- ▶ an individual has no tax liability in the current tax year. If an individual was a property tax payer in the previous periods, then he/she must notify the GTA about the decision of not filing a tax return prior to 15 May of a current tax year;
- ▶ the quantity and quality of taxable objects has not changed since filing of the tax return, and accrual of tax in the previous tax year.

## **2.3 Special Tax Regimes**

### **2.3.1 General Principles**

Individuals may obtain a special status of Micro Business and individual entrepreneurs – the status of Small Business. Upon obtaining these statuses they become eligible for certain simplified accounting rules and tax exemptions.

The rules of assigning the status of Micro Business and Small Business and issuance of the certificates, as well as the rules for the cancellation of the mentioned statuses, are established by the Minister.

### **2.3.2 Micro Business**

#### **Granting and Cancellation of the Status**

Based on the application filed to the GTA according to the place of registration, the status of Micro Business can be assigned to an individual who:

- ▶ conducts economic activities independently without hiring employees;
- ▶ receives annual gross income up to GEL 30 000;
- ▶ maintains inventory balance up to GEL 45 000;
- ▶ undertakes activities that are not banned for Micro Business as defined by the Government.

The status of Micro Business is cancelled for the current tax year if any of the above requirements for Micro Business are violated. Further, the status of Micro Business is cancelled if an individual with a status of Micro Business applies to the GTA for cancellation of the status of Micro Business or assigning the status of Small Business.

Within 30 days from the cancellation of the status of Micro Business the income of an individual accrued by the moment of cancellation shall be taxed:

- ▶ according to the rules applicable to taxation of Small Business, if the status of Small Business is obtained;
- ▶ according to the rules applicable to standard personal income taxation.

#### **Tax Benefits and Compliance**

Micro Business is exempt from personal income taxation. Micro Business shall keep all primary tax documentation.

The rules of tax compliance for Micro Business are same as for individuals with the exception of Micro Business operating in the territory of the Special Trade Zone. The latter is exempt from obligation to file personal income tax return and pay tax, but the Special Trade Zone Organizer<sup>1</sup> bears all tax compliance obligations (except for property tax compliance) on behalf of a Micro Business.

An individual files a personal income tax return and pays tax accrued by the moment of cancellation of the status of Micro Business within 30 calendar days from cancellation of the status .

### **2.3.3 Small Business**

#### **Granting and Cancellation of the Status**

Based on the application filed to the GTA according to the place of registration, the status of Small Business can be assigned to an individual entrepreneur who:

- ▶ receives annual gross income from economic activities up to GEL 100 000;
- ▶ maintains an inventory balance up to GEL 150 000;

1 A legal entity with a status of Special Trade Zone renting space to individuals including Small and Micro Businesses on the territory of the zone.

- ▶ is not a registered VAT payer;
- ▶ undertakes activities that are not banned for Small Business as defined by the Government;
- ▶ uses a cash machine and has not been penalized for not using the latter more than 3 times during a calendar year.

The status of Small Business is cancelled for the current tax year if any of the above requirements are violated. Further, the status of Small Business is cancelled if an individual entrepreneur applies to the GTA for cancellation the status of Small Business.

An individual entrepreneur may re-obtain the status for the year following the 12 calendar months from cancellation of the status, if the individual entrepreneur:

- ▶ has received total gross income up to GEL 100 000 during the 12 calendar months following the cancellation the status; and
- ▶ is not a registered VAT payer in the year following the 12 calendar months from the cancellation of the status.

### **Tax Benefits and Compliance**

A Small Business is liable for personal income tax at a 5% rate of total gross income. The applicable personal income tax rate further reduces to 3% if the Small Business:

- ▶ has documentary proof of expenses (except for salary expenses) related to the receipt of gross income in the amount of 60% of gross income; and/or
- ▶ conducts activities only in the territory of the Special Trade Zone.

Small Business may benefit with the following simplified accounting rules:

- ▶ keep records of expenses only in the form of a special register (including electronic formats) according to the rules defined by the Minister;
- ▶ keep all primary tax documentation.

However, the loss cannot be carried forward.

Upon cancellation of the status of a Small Business an individual entrepreneur:

- ▶ may record the balance of inventory in the respective document at its market price but only up to GEL 30,000. This document is a proof of inventory expenses;
- ▶ shall include the value of the balance of inventory in the gross income;
- ▶ may credit the VAT on the balance of inventory if registers for VAT and the documents that shall accompany the VAT recovery exist.

The rules of tax compliance for Small Business are the same as for individual entrepreneurs, with the exception of a Small Business operating in the territory of the Special Trade Zone. As for Micro Business, the tax obligations (except for property tax compliance) of a Small Business operating in the territory of this Zone, will be fulfilled by the Special Trade Zone Organizer.

An individual entrepreneur files a personal income tax return and pays tax accrued up to the moment of cancellation of the status of the Small Business, within 30 calendar days from cancellation of the status.

A Small Business is liable to make personal income tax advance payments by the 15th of the month following each quarter. Further, a Small Business has no obligation to withhold taxes on salary payments in an amount not exceeding 25 % of its gross income and on compensation payments for received services.

## 2.4 Partnerships

In the case of a joint ownership and/or a joint activity arrangement that involves more than one person, but without the establishment of a legal person, profit shall be attributed to members on a pro rata basis according to their share portion. Such profit shall be included into their gross income and taxed respectively. This shall be done even if the Partnership does not distribute income received during a tax year to its members.

The Partnership is liable to withhold tax at the source of payment when distributing income to the members not registered for tax.

The loss incurred by the Partnership is attributable to its members on a pro rata basis in accordance to their share portion. The mentioned loss cannot be deducted from the gross income of the member. It can be deducted only from a member's part of taxable income in the Partnership in the following years. The loss can be carried forward for up to 5 or 10 years.

The taking of the Partnership's property into private ownership by a member, or receipt of services, is considered as supply of goods/services by the Partnership at market prices (For details of VAT taxation of Partnerships, see section "Value Added Tax").

The Partnership is liable to file tax returns before 1 April of the year following the reporting year, indicating information on the amount of taxable income (loss) and its distribution to the members.

## 3. Companies

### 3.1 Corporate Income Tax

#### 3.1.1 General Principles

A company is treated as a Georgian company if it is either incorporated or has its place of management in Georgia. Georgian companies are liable to Georgian corporate income tax on their worldwide income, subject to double taxation or other international treaty reliefs. In general, any effective international agreement has precedence over domestic Georgian legislation, including the TCG.

Foreign companies are subject to tax on Georgian source income only, subject to double taxation treaty relief. A foreign company, carrying out business activities through a PE in Georgia, generally has to assume the same tax obligation as a Georgian company (see section “Corporate Income Tax for Foreign Companies”).

Consolidated tax returns cannot be filed under Georgian legislation, and each group member company must report its taxes separately. Branches and other units of Georgian companies do not report and pay corporate income tax independently, but consolidate their taxable income (or loss) with the main company, which pays the total corporate income tax.

The tax period for corporate income tax is a calendar year.

Tax rate is a flat 15%. See rates for withholding taxation for companies in section “Tax Rates at a Glance”.

Companies are required to obtain a tax registration together with a legal registration at the Entrepreneurial and Non-Entrepreneurial (Non-Commercial) Registry of Legal Persons, which is a Public Law Legal Entity – the National Agency of Public Register under the Ministry of Justice of Georgia (the Agency).

#### 3.1.2 Tax Base

Income subject to corporate income tax (i.e. tax base) is currently computed on the basis of IFRS, modified by certain tax adjustments.

The tax base includes the following: trading income, capital gains, income from financial activities, dividend income, gratuitously received goods and services, etc. Income received in foreign currency is converted into GEL at the daily exchange rate published by the NBG for the date of receipt of the income.

Generally, a deduction is allowed for all documented expenditures contributing to the generation of taxable income, except for special non-deductible or partially deductible expenses. The Minister is authorised to define special cases when documenting of the expenditure is not obligatory.

Realised capital gains are included in taxable income and are subject to tax at the regular corporate income tax rate. Capital losses together with other losses can be carried forward for up to 5 or 10 years against future profits (see section “Losses”).

### 3.1.3 Exemptions

Income exempt from corporate income tax includes:

- ▶ Income of budgetary, international and charitable not-for-profit entities, except for income received from economic activity;
- ▶ Grants, membership fees, and donations received by a not-for-profit entity;
- ▶ Portion of income of medical establishments (irrespective of legal form) received from medical activities which has been reinvested (rehabilitation of the establishment, provision for technical base);
- ▶ Up to 1 January 2014 income received from initial supply of agricultural products before their reproduction (i.e. change of code), if such income does not exceed GEL 200,000 during a calendar year;
- ▶ Up to 1 January 2014 income gained from agricultural activities reinvested in agriculture;
- ▶ Income of an International Financial Company received from performance of financial operations and/or provision of financial services and/or sale of securities issued by non-resident persons (for taxation of International Financial Company see section “Beneficial Tax Regimes”);
- ▶ Gain received from sale of securities issued by an International Financial Company;
- ▶ Gain received from sale of free floating securities;
- ▶ Georgian source income of a non-resident received from insurance, re-insurance and leasing services not related with its PE in Georgia;
- ▶ Interest income and gain received from sale of the Government and/or the NBG bonds and interest accrued on accounts with the NBG;
- ▶ Income of a Free Warehouse Company received from re-exporting of goods from Free Warehouse (for taxation of Free Warehouse Company see section “Beneficial Tax Regimes”);
- ▶ Income of an International Company received from the supply of goods and services to other International Companies in the territory of a Free Industrial Zone or outside the economic territory of Georgia (for taxation of International Company see section “Beneficial Tax Regimes”);
- ▶ Income of an investment fund received from supply of financial instruments, performance of financial operations and/or provision of financial services, if the investment fund is an International Financial Company;
- ▶ Income received from supply outside Georgia of IT produced by a Virtual Zone Person<sup>1</sup>.

1 A legal entity having obtained a status of Virtual Zone Person and conducting IT activities

### **3.1.4 Deductible Expenses**

Generally, tax-deductible expenses are those that the taxpayer incurs to contribute to the generation of its taxable income. Documentation, such as receipts and invoices, must be kept to support the tax deductibility of the expenses, except for certain cases defined by the Minister where no documentation is required. For tax audit purposes, a Georgian translation of the documents may be required.

Tax-deductible expenses include the following:

- ▶ Cost of goods sold;
- ▶ Consumables, including fuel and lubricants;
- ▶ Salary expenses;
- ▶ Expenses for employee business trips;
- ▶ Advertising expenses;
- ▶ Interest paid and/or payable, including interest on foreign loans, up to an annual limit of interest rate established by the Minister and pro rated for respective period; deduction of interest is further limited for those companies in which at least 20% of shares is owned by entities exempt from corporate income taxation or residents of low tax jurisdictions/offshore countries; thin capitalization rules may apply in certain cases (see section “Thin Capitalization Rules”);
- ▶ Royalties and service fees incurred;
- ▶ Bad debts, if they have been included in taxable income of the previous periods and then subsequently written off in the accounts;
- ▶ Impairment on outdated or defective inventory items (impairment on fixed assets is not deductible), provided that prior approval from the GTA has been obtained, etc.

Further to the above, banks may deduct provisions on loans within the limits established by the NBG. Insurance companies may deduct (i) the increase in incurred but not reported reserves created according to the rules established by the NBG, and (ii) net claims incurred over a tax year, excluding income from regression and subrogation.

A Virtual Zone Person may deduct the expenses related to the receipt of gross income from supplying IT services in and outside Georgia in proportion to the income received from supplies made in Georgia in its total gross income.

A taxpayer may deduct income from receipt of gratuitous supplies of goods/services from its gross income in a tax year when these goods/services were used in economic activities.

### **3.1.5 Non-Deductible Expenses**

The tax law restricts deductions of certain expenses (qualified according to the accounting legislation in Georgia - IFRS). Generally, these are expenses regarded as not related to generation of taxable income. The following expenses are non-deductible:

- ▶ Corporate income tax;
- ▶ Entertainment expenses;
- ▶ Representation expenses in excess of 1% of taxable income before deductions;
- ▶ Contributions to non-profit charity funds in excess of 10% of taxable income before deduction of charitable expenses;
- ▶ Expenses related to the generation of income exempt from corporate income tax;
- ▶ Expenses on goods/services that are outside the scope of corporate income taxation, except for gratuitous supplies to the state and/or local governments;
- ▶ Penalties and late payment interest paid or payable to the Georgian state budget;
- ▶ Interest expenses above the established limit and subject to thin capitalization rules in certain cases;
- ▶ Expenses on goods/services purchased from Micro Business;
- ▶ Fixed asset capital repair expenses in excess of 5% of the balance value of the corresponding tax depreciation group of fixed assets at the end of the previous tax year (see section “Tax Depreciation”). This excess amount of the capital repair expenses is capitalized and added to the balance value of the corresponding group of fixed assets.

### **3.1.6 Depreciation/Amortization**

Depreciation charges for fixed assets used in economic activities are deductible for tax purposes in accordance with the rates and conditions set out in the Georgian tax legislation. The depreciation method used for corporate income tax purposes is the diminishing balance method (i.e. current depreciation charges are calculated applying underlying depreciation rate to the net value, reduced by previous depreciation charges, of the respective fixed assets group).

#### **Tangible fixed assets**

Depreciations are not assessed on land, works of art, museum items, historical objects (except for buildings), fixed assets with a value below GEL 1,000, biological assets, etc. Fixed assets with a value below GEL 1,000 can be fully deducted from gross income in the year of their exploitation and expenditure on biological assets – in the year when it was incurred.

Fixed assets are allocated to groups, which are depreciated as whole units. Each building represents a separate group. The value of a particular group at the end of a tax year equals its value at the end of the previous tax year, increased by cost of added fixed assets and other capital expenditures defined by the TCG, and reduced by tax depreciation charges of the previous tax year, and the sales price of sold fixed assets (market price in case of gratuitous supply). If at the end of a tax year all fixed assets in a group are realized or liquidated or a balance value of the group is less than GEL 1,000, then the entire balance value of the group can be claimed as tax deductible. If the amount received upon the sale of fixed assets of a group in the course of a tax year exceeds the

book value of the group at the end of the tax year, the surplus amount is included in the gross income and the book value of the group is equal to zero.

The amount of depreciation for each group is calculated by applying the depreciation rate for the group to the value of the group at the end of the tax year. Notably, full annual depreciation can be charged to all assets of the group irrespective of the purchase date (for depreciation rates see Table “Fixed Assets Depreciation Rates” in Appendix).

Taxpayers may apply accelerated depreciation rates for groups 2 and 3, but these rates can not be more than twice the amount of the rates set for the respective groups.

### **Intangible fixed assets**

Intangible assets with a value below GEL 1,000 can be fully deducted from gross income in the year when the respective expense was incurred.

Intangible assets are amortized over their useful lives or at 15% rate per annum if it is impossible to define the useful life of a particular intangible asset. Intangible assets are recorded as a separate group. The amortization expenses on intangible assets are tax-deductible.

Expenses incurred to purchase or produce amortized fixed assets are not capitalized if they had previously been deducted from gross income.

### **Alternative depreciation method**

Taxpayers may use an alternative method to compute the deduction of expenditure on fixed assets, other than non-amortized fixed assets or fixed assets contributed into the capital of a company or supplied under finance lease. A company may fully deduct the cost of such assets in the year of their exploitation, including their capital repair expenses. Those fixed assets are not further included in the asset groups for depreciation. If such assets are sold later, the sales price (market price in case of gratuitous supply) is included in the gross income. If a company elects the alternative method, it must be used for all purchased (produced) fixed assets for at least 5 years.

### **Assets leased out under finance lease**

Each fixed asset supplied under finance lease is recorded as a separate group by the lessor. The balance value of the group is the cost of the asset, except for the cases when the asset was previously depreciated through the diminishing balance method. In the latter case, a lessor is liable to recalculate the depreciation on the leased asset from the moment of its exploitation. The amount received as a result of recalculation is deducted from the balance value of the group to which the asset previously belonged. If the recalculated amount exceeds the balance value of the group, the book value of the group is equal to zero and the surplus amount is included in the gross income. On the other hand, if the asset was depreciated using the alternative method, then total recalculated amount is included in the gross income.

Fixed assets supplied under finance lease are amortized according to the discounted value of lease payments, but the total depreciation amount should not exceed the balance value of the group, as defined in the above paragraph. The detailed amortization rule of assets leased out under finance lease is established by the Minister.

### **Leasehold improvements on rented fixed assets**

Leasehold improvements incurred on assets rented under operating lease that do not reduce the rental payments are capitalized as a separate tax depreciation group. Such improvements are deductible from the gross income over the lease period applying the 15% diminishing balance method.

Upon expiry or early termination of the rental agreement when the leased asset is returned to the lessor, the book value of the group is equal to zero and the remaining balance is not deducted from the gross income.

#### **3.1.7 Taxation of Dividends**

- ▶ Dividends paid to individuals (including non-resident individuals) and non-resident companies are subject to withholding taxation;
- ▶ Dividends paid to resident companies are not subject to withholding taxation and are not further included in taxable income;
- ▶ Dividends received from an International Financial Company are not subject to withholding taxation and are not further included in taxable income;
- ▶ Dividends received from free floating securities are not subject to withholding taxation and are not further included in taxable income;
- ▶ Dividends received from an International Company are not subject to withholding taxation and are not further included in taxable income.

For dividends withholding taxation rates see section “Tax Rates at a Glance”.

#### **3.1.8 Taxation of Interest**

- ▶ Interest sourced in Georgia and paid by a Georgian tax resident including PE of non-resident is subject to withholding taxation;
- ▶ Interest paid to resident banks is not subject to withholding taxation;
- ▶ Resident companies and PEs of foreign companies can credit withheld tax on interest paid in Georgia against corporate income tax liability;
- ▶ Interest income received from financial institutes licensed according to the Georgian legislation is not subject to withholding taxation. At the same time, such interest is not further included in taxable income of the recipient, unless the latter is itself a licensed financial institution;
- ▶ Interest income received from free floating securities is not subject to withholding taxation and is not further included in taxable income;

- ▶ Interest income received from debt securities issued by Georgian enterprises and listed on a recognized foreign stock exchange is not subject to withholding taxation and is not further included in taxable income;
- ▶ Interest income received from an International Company is not subject to withholding taxation and is not further included in taxable income.

For interest withholding taxation rates see section “Tax Rates at a Glance”.

### **3.1.9 Taxation of Royalties**

- ▶ Royalties paid by a Georgian tax resident including PE of non-resident to resident individuals are subject to withholding taxation.

For royalties withholding taxation rates see section “Tax Rates at a Glance”.

### **3.1.10 Taxation of Rental Income**

- ▶ Rental payments (except for finance lease payments) by a Georgian tax resident including PE of non-resident to resident individuals are subject to withholding taxation.

For rental income withholding taxation rates see section “Tax Rates at a Glance”.

### **3.1.11 Thin Capitalisation Rules**

Thin capitalisation occurs when the “debt to equity” ratio exceeds 3/1. In case of thin capitalization a company is not allowed to deduct paid and/or payable interest expenses from its gross income. At the same time, thin capitalization rules do not restrict deduction of interest expenses on the debt below the established ratio of 3/1. Thin capitalization rules do not apply:

- ▶ to financial institutions;
- ▶ to entities with gross income not exceeding GEL 200,000;
- ▶ if interest expenses do not exceed 20% of the taxable income before deduction of interest expenses.

Thin capitalization is determined according to the average annual ratio, in line with the rules determined by the Minister.

Notably, thin capitalization rules apply only to cases when the Investigation Services of the Ministry of Finance of Georgia (the Ministry) proves that thin capitalization is used as a deliberate tax evasion mechanism.

### **3.1.12 Related Party Transactions**

The GTA can adjust the tax base if there is evidence that arm's length prices were not used in transactions between related parties. Parties are recognized as related if special relations between them may affect the conditions or economic results of their activities. Such special relations include, in particular, relations where:

- ▶ Persons are founders (participants) of the same enterprise and their total share amounts to at least 20%;

- ▶ A person has a direct or indirect interest in an enterprise, where such interest is at least 20%;
- ▶ An enterprise is under control of another person;
- ▶ An individual is subordinated to another individual in terms of his position;
- ▶ A person is under direct or indirect control of another person;
- ▶ Persons are under direct or indirect control of another person;
- ▶ Persons jointly directly or indirectly control another person;
- ▶ Individuals are relatives;
- ▶ Individuals are members of a partnership.

For the purposes of determining the existence of special relations between the persons, control means

- ▶ being a member of a supervisory board, director, or a person authorised to appoint others to these positions;
- ▶ having 20% of voting rights.

### **3.1.13 Transfer Pricing Rules**

The Georgian transfer pricing rules generally apply to cross-border transactions between related parties. In special cases these rules may also apply to transactions between related Georgian entities or transactions between unrelated entities where one of the parties is a resident of low tax jurisdiction/offshore country, or is registered in the Free Industrial Zone.

The following are the generally accepted transfer pricing methods:

- ▶ Comparable uncontrolled price method;
- ▶ Resale price method;
- ▶ Cost plus method;
- ▶ Net profit margin method;
- ▶ Profit split method.

A detailed description of transfer pricing methods, their application rules, and other procedural matters are defined by the order of the Minister.

### **3.1.14 Losses**

Losses can be carried forward for up to 5 years against future profits. Further, a taxpayer can elect a 10-year loss carry forward period. In the latter case, the statute of limitation is 11 years. A 10-year carry forward period can still be changed to a 5-year carry forward period when the losses carried forward are used up.

Losses cannot be carried forward by an International Financial Company, Free Warehouse Company, and International Company (for taxation of International Financial

Company, Free Warehouse Company and International Company see section “Beneficial Tax Regimes”).

No carry back is allowed.

### **3.1.15 Foreign Tax Relief**

Foreign corporate income tax paid on income generated from a foreign source may be credited against the Georgian tax imposed on the same income, limited to the amount of such Georgian tax (i.e. only up to the amount of the corporate income tax which would be payable on such income in Georgia). For the purpose of crediting foreign tax paid abroad, the foreign source shall provide the GTA with payment evidence.

### **3.1.16 Compliance**

Corporate income tax return can be filed either personally, electronically (see section “E-services”) or sent via insured mail within three months following the end of the tax period. The submission date can be extended for up to a further three months if the GTA are notified before the deadline expires, and a taxpayer has made the advance tax payments (or has no obligation to make advance tax payments) due for the current tax year (see section “Filing of Tax Return”). Corporate income tax return can be amended within the statute of limitation (see section “Statute of Limitation”).

Georgian companies, including PEs of foreign companies in Georgia conducting economic activities, must make advance corporate income tax payments either via bank or e-paying system (see section “E-services”) at 25% of the tax liability for the preceding tax year. The due dates for the payments are 15 May, 15 July, 15 September, and 15 December of the current tax year.

Advance payments of tax are applied against the corporate income tax liability for the current tax year. The balancing payment for the current period shall be made before 1 April of the year subsequent to the current tax year.

The excess of the total advance payments over the tax due for the tax year can be applied against any outstanding or future tax liabilities, or be refunded according to specified procedures.

If the tax rate changes in the current tax year, a taxpayer is authorised to calculate and make advance corporate income tax payments applying the current tax rate to the taxable income of the preceding tax year.

A taxpayer with no taxable income during the previous tax year does not have to make advance corporate income tax payments during the current tax year.

### **3.1.17 Corporate Income Taxation for Foreign Companies**

#### **3.1.17.1 General Principles**

A company is treated as a foreign company if it is not a Georgian company (i.e. neither incorporated nor has its place of management in Georgia). Foreign companies are generally subject to Georgian tax on income generated in Georgia. This Georgian

source income is taxed applying either a regular taxation scheme (i.e. applicable to Georgian companies, that is 15% of a taxable income) if it is earned through a PE of a foreign company in Georgia, or is subject to withholding taxation if it is not earned through a PE.

Georgian law allows foreign investment in various forms, including investment through 100% foreign-owned subsidiaries, share participation in Georgian companies, and in joint ventures with Georgian legal entities and individuals, PEs (affiliates, branches), and other types of participation.

### **3.1.17.2 Permanent Establishment (PE)**

Income earned through a PE in Georgia, reduced by tax-deductible expenses, is taxed at the regular flat corporate income tax rate of 15%. A PE is defined as any fixed location for business activities of a foreign company in Georgia through which this foreign company carries out, in full or in part, an economic activity in the territory of Georgia, including activity carried out by an authorized person. The followings are equivalent to PE in Georgia:

- ▶ Construction sites, assembly or building facilities, and the exercise of controlling activities connected with them;
- ▶ Installations, structures, drilling equipment, ships used for surveying of natural resources, as well as the exercise of controlling activities connected with such facilities;
- ▶ A permanent base where a non-resident individual carries out economic activity;
- ▶ The place of management of a foreign company, branch, representative office, department, bureau, office, agency, workshop, mine, pit, other place for extraction of natural resources, or any other separate unit or place of activity of such company.

Domestic tax law and applicable double taxation treaties list activities that do not result in a taxable PE, including:

- ▶ Storage or demonstration of goods belonging to a foreign company or non-resident individual;
- ▶ Keeping a stock of goods belonging to a foreign company or non-resident individual, only for the purpose of processing by another person;
- ▶ Purchase of goods or collection of information for a foreign company or non-resident individual;
- ▶ Performance of any other activities that are preparatory or auxiliary in nature on behalf of a foreign company or non-resident individual;
- ▶ Preparation and/or signing of contracts for granting loans, supplying goods or rendering technical assistance on behalf of a foreign company or non-resident individual;
- ▶ Execution of any combination of the above activities.

Further, the transfer of property under operating lease, finance lease, usufruct or under any similar substance in the territory of Georgia does not result in PE of a foreign company or a non-resident individual.

Simply holding ordinary shares in Georgian companies, securities issued by the latter, or owning the property in the territory of Georgia without having any characteristics of PE mentioned above, does not result in PE of a foreign company or a non-resident individual.

### **3.1.17.3 Withholding Taxation**

Income earned by foreign companies and non-resident individuals from Georgian sources without a PE in Georgia is subject to withholding taxation at the source of payment (for withholding taxation rates see section “Tax Rates at a Glance”). However, double taxation treaties may reduce the tax rates.

A resident payer of income (legal entity of individual entrepreneur) is responsible for withholding the tax from the income paid, without taking into consideration associated expenses, and transferring it to the state budget upon the payment (on the last day of the month for non-monetary payments) to the foreign person either via bank or e-paying system (see section “E-services”). Returns are filed either personally, electronically (see section “E-services”) or via insured mail by the 15th of the month following the reporting period (monthly or quarterly) in which the payment was made. Further, the information about payments made to non-residents and taxes withheld shall be submitted to the GTA annually within 30 days following the tax year. A non-resident taxed at the source of payment in Georgia may wish to file a tax return for the purpose of tax recalculation and refund before 1 April of the year following the reporting year. In this case, a non-resident will be taxed as receiving income through its PE in Georgia, associated expenses being deductible.

Currently Georgia has effective double taxation treaties with 30 countries (see Table “Double Tax Treaty Withholding Tax Rates” in Appendix). The rules on utilization of benefits granted by the double taxation treaties are established by the Instruction of the Minister. According to these rules, a Georgian resident paying to a non-resident must file to the GTA a respective application form for avoidance or reduction of withholding tax. The application form must be filed before the payment or within six months of the payment. If the application form is submitted after the mentioned six-month period, the penalty for the failure to submit information to the GTA will apply. If the tax was withheld upon the payment, a non-resident can claim the refund by filing a respective application form (see section “Agreements for the Avoidance of Double Taxation”).

## 3.2 Value Added Tax (VAT)

### 3.2.1 Taxable Transactions

VAT taxable transactions include:

- ▶ Supply of goods/services made in the territory of Georgia (including barter and/or gratuitous supply);
- ▶ Use of VAT taxable goods/services for non-economic purposes, if taxpayer has obtained a VAT credit for these goods/services;
- ▶ Upon cancellation of VAT registration, the balance of goods for which taxpayer has obtained a VAT credit;
- ▶ Use of self-constructed buildings as fixed assets;
- ▶ Transfer of ownership on goods/services in exchange for share in legal entity/partnership;
- ▶ Upon expiry or early termination of rental agreement, supply of leasehold improvement, if any, to the lessor;
- ▶ Supply of goods/services by a taxpayer to its employees with or without compensation;
- ▶ Export of goods outside Georgia;
- ▶ Import and/or temporary import of goods into Georgia.

### 3.2.2 Place of Supply

#### Place of supply for goods

- ▶ The place of supply is wherever the goods are actually supplied or where transportation of goods starts, if supply of goods require transportation;
- ▶ The place of supply of electrical or thermal energy, gas and water is the place of receipt of these goods;
- ▶ The place of supply of exported goods is Georgia.

#### Place of supply for services

Depending on the nature of service, the place of supply is:

- ▶ the location of immovable property if the service is related to this property;
- ▶ the place of actual supply if the service is related to movable property or is rendered in the sphere of culture, art, education, tourism, recreation, gymnastic or sport;
- ▶ the location of passengers or cargo upon start of their transportation, if the service is related to this transportation;
- ▶ the place of registration or management of service recipient or location of its PE if the service is related to the latter, when the service provider and service recipient are located in different countries. This provision stands for the following services:

supply of intangible assets, consultation, legal, accounting, engineering and similar services, staffing services, advertising services, financial, insurance and re-insurance operations, renting movable property except for means of transportation, telecommunication, radio- and television services, services provided electronically (e.g. web-sites, web-hosting, software support, distance learning, etc.).

- ▶ If place of supply is not described under any of the above categories, the place of supply is the place of economic activities of a service provider.

### **3.2.3 Invoicing**

If taxpayer is a VAT registered taxpayer, they must issue a tax invoice on VAT taxable transactions to the customers upon their request no later than 30 calendar days from the request. A tax invoice is issued either in paper in the format approved by the Minister or in electronic form.

### **3.2.4 VAT Registration**

Taxpayer can register for VAT voluntarily. However, they are liable to register if they:

- ▶ carry out economic activities and the total amount of VAT taxable transactions carried out in any continuous period of 12 calendar months exceeds GEL 100,000. Taxpayer must file an application for VAT registration to the GTA no later than 2 working days from this moment;
- ▶ produce and/or import excisable goods into Georgia (except for excisable goods exempt from VAT taxation upon import). Taxpayer must file an application for VAT registration to the GTA before supply of excisable goods in Georgia;
- ▶ intend to carry out a single VAT taxable supply, or a set of VAT taxable supplies in one day with a total amount exceeding GEL 100,000. Taxpayer must file an application for VAT registration to the GTA before the supply is made;
- ▶ are an entity established as a result of reorganization and at least one of the parties to reorganization is a VAT payer. Taxpayer must file an application for VAT registration to the GTA before VAT taxable transaction is carried out, but no later than 10 calendar days from reorganization;
- ▶ are a legal entity/partnership and a VAT payer shareholder/partner contributed goods/services into their capital. Taxpayer must file an application for VAT registration to the GTA before a VAT taxable transaction is carried out, but no later than 10 calendar days from such contribution.

The registration procedure is straightforward and the taxpayer can register for VAT normally within one working day.

### **3.2.5 VAT Deregistration**

VAT registration is cancelled

- ▶ upon liquidation of a business;
- ▶ upon decease of an individual;

- ▶ if a one-time supply exceeding GEL 100,000 leading to mandatory VAT registration is not carried out.

Taxpayer may also deregister though filing an application for VAT deregistration if the sum of their taxable transactions, excluding VAT during the last 12 calendar months, does not exceed GEL 100,000, provided they have been registered for at least one year. The GTA may also request the cancellation of VAT registration and deregister a taxpayer if the latter agrees.

VAT registration is cancelled from the first day of a month following the reporting period when (a) obligation to deregister arises or (b) taxpayer submits an application or (c) taxpayer agrees to the de-registration request from the GTA.

### **3.2.6 VAT Rates**

VAT rate is 18% for all taxable transactions and imports unless a specific provision allows an exemption.

Same rate applies to RCVAT.

VAT rate of 0.54% applies to temporarily imported goods for each complete/incomplete calendar month whilst they are located in the economic territory of Georgia, but only up to VAT amount calculated at 18%.

### **3.2.7 Exempt Supplies**

VAT exempt supplies are not subject to VAT taxation; however, if taxpayer makes such supplies they may or may not be entitled to reclaim input VAT deduction.

#### **Transactions exempt with the right to reclaim input VAT**

The list of exempt items with the right to reclaim input VAT includes:

- ▶ Export of goods;
- ▶ Supply of goods/services intended for the official or personal use of foreign diplomatic and equal representative offices;
- ▶ Transportation of passengers and luggage and related services provided that either departure or destination point is located outside Georgia;
- ▶ Import and/or supply of aviation fuel, lubricants and other supplementary products to be provided on board for international flights or international sea passages;
- ▶ Supply of Georgian goods for sale in duty free zone and sale of goods/provision of food services therein;
- ▶ Supply of assets under reorganization;
- ▶ Contribution of assets into the capital of a legal entity/partnership, where the latter has theoretically credited VAT on these assets upon the contribution;
- ▶ Supply of gold to the NBG;
- ▶ Organized foreign tours into Georgia by tour operators and the supply of tourist packages by the latter;

- ▶ Supply of business as a going concern by one VAT payer to another, provided that both parties notify the GTA within 15 days from supply; etc.

### **Transactions exempt without the right to reclaim input VAT**

The list of exempt items without the right to reclaim input VAT includes:

- ▶ Conduct of financial operations and/or supply of financial services;
- ▶ Privatization sales;
- ▶ Import and/or supply of goods and services under the Law of Georgia on Oil and Gas;
- ▶ Import and/or temporary import of goods intended for personal use of citizens of foreign countries employed at oil and gas exploration and extraction works;
- ▶ Import and/or temporary import of goods for the official and personal use of foreign diplomatic and equal representative offices ;
- ▶ Import and/or supply of certain medicines, passenger cars, publications and mass media and baby products;
- ▶ Supply of educational and medical services;
- ▶ Initial supply of agricultural products (except for eggs) before their reproduction (i.e. change of code) by individuals engaged in agricultural activities;
- ▶ Supply of land plots;
- ▶ Supply of betting and gaming services;
- ▶ Import of 200 cigarettes or 50 cigars or 50 cigarillos (slim cigars) or 250 grams of other tobacco products or combination of all mentioned products up to 250 grams by an individual during one calendar day by air transport or during 30 days by other means of transportation, also import of 4 litres of alcoholic beverages;
- ▶ Import of goods under 30 kilograms and with the value between GEL 300 and GEL3,000 depending on the type of the goods and means of transportation (except for import of goods from Free Industrial Zone or Free Warehouse); further, import of goods with the value up to GEL 15,000 depending on the period spent outside Georgia;
- ▶ Supply of goods/services between Free Industrial Zone Companies (see section “Beneficial Tax Regimes”);
- ▶ Supply of goods/services to VAT payer in Free Warehouse (see section “Beneficial Tax Regimes”);
- ▶ Supply of the shares (not attached with the property) in partnership, except for receiving the property in individual ownership in exchange for the shares (for taxation of Partnerships, see section “Partnerships”).
- ▶ Supply of property by the partnership to its members, provided that the members are individuals only, the composition of the partnership has not changed since

its establishment and the partnership is not a registered VAT payer (see section “Partnerships”); etc.

A taxpayer may apply to disuse the exemption without the right to reclaim input VAT. The exempt supplies will become subject to VAT and taxpayer will have the right to reclaim input VAT. This option becomes effective from the first day of the reporting period following the submission of application and is valid for 12 calendar months for all transactions. The GTA must register a taxpayer for VAT and the latter must accrue VAT on all exempt transactions.

### **3.2.8 VAT Recovery**

VAT paid or payable (input VAT) can be credited against VAT or other taxes payable, or may be refunded.

For input VAT to be creditable, certain conditions should be met, including:

- ▶ Taxpayer must be a registered VAT payer;
- ▶ Valid tax invoice for the purchase must be reported to the GTA in a reporting period following the reporting period this invoice corresponds to;
- ▶ The goods/services purchased must be used in taxable transactions, except for exempt transactions without the right to reclaim input VAT, in export of goods or for rendering the services outside the territory of Georgia.

If goods and services are used for both exempt supplies with the right to reclaim input VAT, and exempt supplies without the right to reclaim input VAT, taxpayer is obliged to account for them separately:

- ▶ Input VAT directly related to exempt supplies with the right to reclaim is recoverable in full;
- ▶ Input VAT directly related to exempt supplies without the right to reclaim is not recoverable;
- ▶ Input VAT that may not be directly attributed to supplies exempt with or without the right to reclaim is recoverable in proportion to the exempt supplies, with the right to reclaim input VAT in total annual turnover.

The recovery of input VAT on fixed assets is similar to other goods described above, with the following exception. If fixed assets are used in exempt transactions both with or without the right to reclaim input VAT, and the input VAT cannot be directly attributed to these transactions, then the input VAT is recoverable in full in the first reporting period, if exempt supplies without the right to reclaim input VAT are less than 20% of total turnover of the previous tax year. The recoverable VAT is adjusted by the end of each calendar year in proportion to the exempt supplies, with the right to reclaim input VAT in total turnover of the respective 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 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.

The adjustment value of input VAT is calculated at:

- ▶ 1/10 of total input VAT for 10 calendar years for buildings;
- ▶ 1/5 of total input VAT for 5 calendar years for other fixed assets.

Cases where no VAT credit is allowed include:

- ▶ Social, entertainment and representation expenses;
- ▶ Tax invoices, where the seller of goods/services cannot be identified;
- ▶ Bogus operations or fictitious agreements;
- ▶ Expenses incurred for the production of goods/services used in exempt supplies without the right to reclaim input VAT.

### ***3.2.9 Special Rule for VAT Taxation of Import***

If taxpayer is a VAT payer and has declared and paid to the state budget VAT (except for VAT paid on import, temporary import, or export) in excess of GEL 200,000 during the last 12 calendar months, taxpayer will be subject to a special rule for VAT taxation of import, from the first day of the month following the reporting period when this condition arises.

Under this rule, import is not subject to VAT taxation. However, the VAT that should have been paid on such import is theoretically considered to be credited in the respective reporting period.

Taxpayer may declare in writing the refusal to qualify for this special rule.

### ***3.2.10 Refund of VAT Paid on Goods Purchased by Citizens of Foreign Countries***

If taxpayer is a citizen of a foreign country and has purchased goods in Georgia, taxpayer may be refunded VAT paid on these goods provided the following criteria are met:

- ▶ Goods are taken out of the territory of Georgia within 45 calendar days from their purchase;
- ▶ Price of purchased goods per each receipt is more than GEL 200 (exclusive of VAT);
- ▶ The receipt for the purchase is issued by an authorised seller in the format approved by the Minister.

### ***3.2.11 Reverse Charge VAT (RCVAT)***

RCVAT mechanism applies when a supplier of VAT taxable services is a non-resident (except for a Georgian citizen individual) and has no VAT registration in Georgia. The tax-registered resident (except for non-entrepreneur individual or Free Industrial Zone Company) and PE of a non-resident, paying for non-resident services, must report and pay RCVAT.

Further, if service/goods products (projection documents, technical documentation, technological scheme, program, etc.) are supplied outside the territory of Georgia by non-resident through internet or any other means of electronic communication, and accordingly do not cross the economic border of Georgia in the form of an integral scheme or any other type of information bearer, such supply is subject to RCVAT as well.

Paid RCVAT is creditable against VAT payable in the same manner as directly paid input VAT.

Refund of RCVAT is based on the same rules as for ordinary VAT, but the document verifying the payment of RCVAT is used as the tax invoice. Taxpayer can only credit/refund RCVAT if they are a registered VAT payer.

The supply of goods by a non-resident in Georgia through its tax resident representative is considered supply made by this representative for VAT taxation purposes.

### **3.2.12 Compliance**

The VAT reporting period is for each quarter, for certain VAT payers, according to a resolution of the Government. In all other cases the VAT reporting period is a month. From 1 January 2013 VAT the reporting period will be each quarter for all VAT payers.

VAT payers are required to file a VAT return either personally, electronically (see section "E-services") or send it via insured mail and pay VAT, including RCVAT, either via bank or e-paying system (see section "E-service") no later than the 15th of the month following the reporting period. VAT on import is paid at the moment the goods are imported into Georgia. VAT on temporary imports is paid no later than the 15th of every next month, the last payment made on the last day of temporary import. Taxpayer may pay VAT on temporary imports in a lump sum.

## **3.3 Excise Tax**

### **3.3.1 Taxpayers**

Taxpayer is an excise taxpayer if they:

- ▶ produce excisable goods in Georgia, including production with customer's raw materials;
- ▶ import or export excisable goods into or outside Georgia;
- ▶ supply condensed natural gas and/or natural gas for motor vehicles;
- ▶ render mobile communication services.

### **3.3.2 Taxable Transactions**

Taxable transactions include:

- ▶ Supply of excisable goods manufactured in Georgia by the producer and/or removal of excisable goods from the warehouse for supply;

- ▶ Transfer of excisable goods produced with customer's raw materials in Georgia to the customer;
- ▶ Use of self-produced excisable goods for manufacturing non-excisable goods;
- ▶ Supply of condensed natural gas and/or natural gas for motor vehicles;
- ▶ Supply of mobile communication services;
- ▶ Import of excisable goods into Georgia;
- ▶ Export of excisable goods outside Georgia.

### **3.3.3 Tax Rates**

Excise tax rates are fixed per physical unit of excisable good (litre, cm<sup>3</sup>, kilogram, ton, etc.) and varies from product to product (for excise tax rates see Table "Excise Tax Rates" in Appendix).

Export of ferrous and/or non-ferrous scrap metal is taxed at GEL 120 per ton.

Excise tax rate for mobile communication services is 10% of the amount of taxable transaction. This rate may be reviewed and changed within 0% to 10% range for each calendar year by the Government initiative. The amount of taxable transaction is compensation received or receivable (inclusive of taxes, duties and other fees) except for excise tax, VAT and/or penalties in the reporting period. Compensation from international mobile communication services rendered to non-resident entities is not included in taxable amount.

### **3.3.4 Exempt Supplies**

Supplies exempt from excise tax are not subject to excise taxation. However, if taxpayer makes exempt supplies they may or may not be entitled to reclaim input tax deduction.

Transactions exempt with the right to reclaim input excise tax

- ▶ Export of excisable goods, except for export of ferrous and/or non-ferrous scrap metal;
- ▶ Supply of Georgian goods for sale in a duty free zone.

Transactions exempt without the right to reclaim input excise tax

- ▶ Alcoholic beverages produced by an individual for own consumption;
- ▶ Import of 200 cigarettes or 50 cigars or 50 cigarillos (slim cigars) or 250 grams of other tobacco products or combination of all mentioned products up to 250 grams by an individual during one calendar day by air transport or during 30-day period by other means of transportation; also import of 4 litres of alcoholic beverages;
- ▶ Fuel in the petrol tank technologically connected to the engine of the motor vehicle of a person entering Georgia by this vehicle;
- ▶ Import and/or supply of aviation fuel, lubricants and other supplementary products to be provided on board for international flights or international sea passages;

- ▶ Import and/or temporary import of goods for the official use of foreign diplomatic and equal representative offices;
- ▶ Import and/or temporary import of goods for personal use of citizens of foreign countries (including their family members) employed at oil and gas exploration and extraction works;
- ▶ Import and/or supply of oil products necessary to carry out oil and gas operations defined by the Law of Georgia on Oil and Gas;
- ▶ Motor cars classified under code no. 8703 according to the classification of the goods under the Foreign Economic Activity Commodity Nomenclature (the Commodity Nomenclature);
- ▶ Return of excisable goods into Georgia in the same condition within 3 years from their export.

### **3.3.5 Invoicing**

If taxpayer is an excise taxpayer, they must issue and submit a tax invoice (which also includes excise information) to a recipient of goods/services upon his/her request within 30 calendar days from such request.

### **3.3.6 Excise Tax Recovery**

If taxpayer conducts excise taxable transactions or exports excisable goods, they are entitled to a credit or refund of excise tax paid on excisable goods (materials) purchased to produce excisable goods. A similar credit/refund procedure applies to excise tax paid on import of goods intended for use in the production of excisable goods, but up to the excise tax payable on such excisable goods. Credit or refund of excise tax shall be accompanied with a tax invoice and/or commodity declaration that proves the payment of excise tax to the producer of excisable goods (materials) and/or upon import of such goods.

If excisable materials are used in production of both excisable and non-excisable goods, the credit of excise tax is obtained in proportion with produced excisable goods, but up to the excise tax payable on such excisable goods.

Providers of mobile communication services credit excise tax paid on such services against excise tax payable, provided that they are not final consumers. A valid tax invoice is required to obtain the credit.

### **3.3.7 Compliance**

The excise tax reporting period is a quarter.

Taxpayers are required to file an excise tax return either personally, electronically (see section "E-services") or send it via insured mail and pay excise tax either via bank or e-paying system (see section "E-services") by the 15th of the month following the reporting period. Excise tax on import or export of ferrous and/or non-ferrous scrap

metal is paid at the moment the goods are moved into or outside Georgia. For certain beverages and tobacco products, excise stamps are used to collect the excise tax.

### **3.3.8 Excise Stamps**

The following goods are subject to excise stamping:

- ▶ Alcoholic beverages, including beer, with an alcoholic content higher than 1.15 degrees;
- ▶ Tobacco products except for pipe tobacco.

Upon purchase of excise stamps either personally or via e-filing system (see section “E-services”), excise tax and nominal value of such stamps is paid. Stamping of excisable goods is carried out according to the rules established by the Minister.

## **3.4 Import Tax**

### **3.4.1 General Principles**

Import tax payer is any person (individual or legal entity, including the PE of a non-resident) moving goods on the economic border of Georgia, except for export.

Import tax is based on either the tariff value or per physical unit of goods (for methods of determining the tariff value of goods upon import see section “Movement of Goods in the Economic Territory of Georgia”).

Certain motor vehicles are taxed according to the special formula outlined below.

The assessed import tax is paid at the moment goods are brought into the economic territory of Georgia.

### **3.4.2 Tax Rates**

The rate applicable to the tariff value of goods is fixed at 0%, 5% or 12% according to the Commodity Nomenclature. Most goods fall into the 0% rate category. Most food products and construction materials fall under the 5% or 12% tax rates.

Beverages are taxed at EUR 0.2 - EUR 3 per litre or 100 litres, depending on alcohol content.

Import tax on temporary import is fixed at 3% of the amount of import tax for each complete/incomplete month of the goods located in the economic territory of Georgia that would have been paid on a usual import, but up to the amount of this import tax.

Import tax charged on motor cars classified under code no. 8703 according to the Commodity Nomenclature is calculated using the following formula:

$IT = \text{GEL } 0.05 * V * (1 + 5\% * N)$ , where

IT - is the import tax on the motor vehicle in GEL,

V- volume of the engine of the motor vehicle in cubic centimetres,

N- age of the motor vehicle in years.

### 3.4.3 Exempt Goods

The list of operations which are exempt from import tax includes:

- ▶ Placement of goods under any operation upon bringing them into the economic territory of Georgia, except for import and/or temporary import;
- ▶ Placement of goods in a duty free zone;
- ▶ Import of goods produced in a Free Industrial Zone;
- ▶ Import of goods defined by the grant agreements;
- ▶ Import and/or temporary import of goods intended for personal use of citizens of foreign countries employed at oil and gas exploration and extraction works;
- ▶ Import and/or temporary import of goods for the official and personal use of foreign diplomatic and equal representative offices;
- ▶ Import of child and diabetic food products;
- ▶ Import of aviation fuel, lubricants, and other supplementary products to be provided on board for international flights and international sea passages ;
- ▶ Import of goods in the framework of Law of Georgia on Oil and Gas;
- ▶ Import of tobacco products and/or tobacco raw materials until 1 January 2012;
- ▶ Import of 200 cigarettes or 50 cigars or 50 cigarillos (slim cigars) or 250 grams of other tobacco products (except for tobacco raw materials) or combination of all mentioned products up to 250 grams, by an individual during one calendar day by air transport, or during 30 days by other means of transportation; also, the import of 4 litres of alcoholic beverages;
- ▶ Import of goods under 30 kilograms and with a value between GEL 300 and GEL 3,000, depending on the type of goods and the means of transportation; further, import of goods with a value up to GEL 15,000, depending on the period spent outside Georgia;
- ▶ Import of goods returned into Georgia in the same condition within 3 years from their export.

## 3.5 Property Tax

### 3.5.1 Taxpayers and Taxable Assets

Georgian resident companies and not-for-profit entities are subject to property tax on fixed assets, non-assembled equipment, construction in progress and intangible assets listed on their balance sheet, as well as on property leased out under finance lease.

Non-resident enterprises are subject to property tax on the same types of assets located in Georgia, including property rented out under operating lease, usufruct or any similar type of agreement.

### 3.5.2 Tax Rates

Annual property tax rate for companies and not-for-profit entities should not exceed 1% of the average annual NBV of the taxable assets (excluding land).

For property tax purposes the average annual NBV shall be increased (indexed):

- ▶ three times for assets received before 2000;
- ▶ two times for assets received from 2000 to 2004;
- ▶ one and a half times for assets received during 2004;
- ▶ three times for assets with no purchase information.

The average annual NBV of taxable assets of a company is not subject to the above indexation provided the company uses the revaluation method of accounting for immovable property and has financial statements audited by the firms defined by the Government Decree. Such audited financial statements are valid for 4 years for the purposes of indexation.

During a tax audit the GTA may calculate the average annual NBV of the property applying the market prices, except for the case described in the above paragraph.

The decision of the GTA on application of market prices can be appealed (see section "Tax Dispute Resolution"). If it is proved that the market price exceeds the book value of taxable property, the property tax accrued on the resulting difference becomes due. However, no sanctions apply for the periods prior to the acceptance of the additional tax assessment. Further, the additionally assessed tax is not treated as a reduction of the tax liability. Taxpayer shall use the NBV adjusted by the GTA for 3 tax years going forward.

Annual property tax rates for agricultural and non-agricultural land applicable to companies/not-for-profit entities, are identical to those applied to individuals (for property tax rates on land see section "Property Tax for Individuals").

### 3.5.3 Exemptions

Certain types of assets, except for land plots and/or buildings rented out under operating lease, usufruct or any similar agreement, are exempt from property tax, such as:

- ▶ Roads;
- ▶ Communication and electronic transmission wires;
- ▶ Property of a not-for-profit entity except for land and property used for economic activities;
- ▶ Property and land used for activities defined by the Law of Georgia on Oil and Gas;
- ▶ Property owned by medical institutions and used for medical activities, except for land;
- ▶ Land plots attached to the buildings of medical institutions used for medical activities;

- ▶ Property located in a Free Industrial Zone;
- ▶ Biological assets;
- ▶ Agricultural land plots received by legal entities and requiring cultivation for 5 years.

#### **3.5.4 Compliance**

Companies/not-for-profit entities submit annual property tax returns either personally, electronically (see section “E-services”) or send it via insured mail no later than 1 April of the calendar year. The submission date can be extended for up to a further three months if the GTA are notified before the deadline expires (see section “Filing of Tax Returns”). Property tax returns can be amended within the statute of limitation (see section “Statute of Limitation”).

Information presented in property tax returns with regard to taxable land is as of 1 April of the current tax year and for the remaining property - as of 31 December of the previous tax year.

Before 15 June taxpayers are liable to make the advance payment in the amount of full property tax of the previous tax year, either via bank or e-paying system (see section “E-services”). Balancing payment of property tax is due no later than 1 April of the following tax year.

Enterprises that were incorporated after the beginning of the calendar year are not liable to make advance payment. Enterprises that existed for an incomplete calendar year pay property tax in proportion to this period.

Property tax on land is payable no later than 15 November of the calendar year. No advance payment is required for property tax on land.

### **3.6 Beneficial Tax Regimes**

#### **3.6.1 General Principles**

Companies can improve their tax effectiveness by obtaining the special status of an international financial company, free warehouse company and international company in Georgia. Being eligible for any of these statuses as defined by the TCG, they will be granted with significant tax exemptions upon obtaining such status. The status is granted by the GTA according to the rules defined by the Minister. The terms of granting and cancellation of the status and associated tax benefits are as follows.

#### **3.6.2 International Financial Company**

##### **Granting and Cancellation of the Status**

An International Financial Company is a financial institution, established outside the Free Industrial Zone, which is granted with such status:

- ▶ based on the application filed by the authorised person of a company for the following calendar years, or

- ▶ upon the state registration of a company for the current and following calendar years.

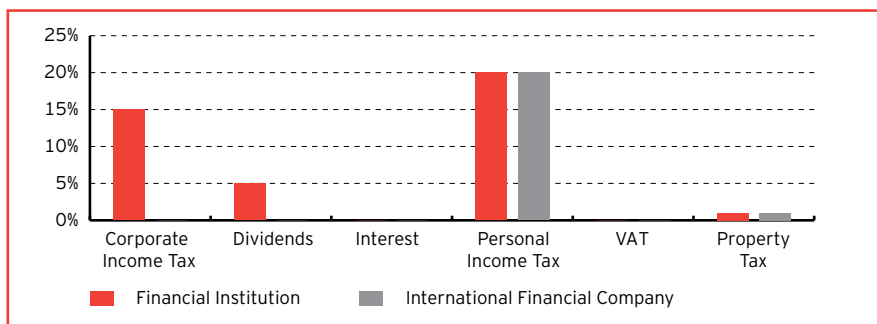
A certificate of the status is issued to the company.

It is cancelled:

- ▶ for the calendar year indicated in the application filed by the authorised person of a company.

## Tax Benefits

An International Financial Company benefits from certain tax exemptions discussed below, that are also illustrated in the following graph.



- ▶ An International Financial Company (including Investment Funds with such status) is exempt from paying corporate income tax on income received from financial operations and/or financial services, provided its Georgian source income received from financial services does not exceed 10% of its worldwide gross income. For the purpose of the above, income received from financial operations and/or financial services between International Financial Companies will not be considered income derived from Georgian sources. A penalty at 100% of the excess amount may be imposed on an International Financial Company if the 10% threshold is breached.
- ▶ An International Financial Company is exempt from corporate income tax on gain received from sale of securities issued by non-resident persons.
- ▶ Gain received from sale of securities issued by an International Financial Company is exempt from taxation for companies and individuals.
- ▶ An International Financial Company, if licensed according to the Georgian legislation, will be exempted from obligation to withhold tax on interest payments.
- ▶ An International Financial Company is not liable to tax the dividends at source. Such dividends are not further included in the gross income of a receiver.
- ▶ Conduct of financial operations and/or provision of financial services in Georgia in general is exempt from VAT taxation without the right to reclaim input VAT. Thus, International Financial Company can also benefit from this tax exemption with respect to its financial services and/or financial operations carried out in Georgia.

No carry back or carry forward of losses is allowed for an International Financial Company.

### 3.6.3 Free Warehouse Company

#### Granting and Cancellation of the Status

A Free Warehouse Company, including those established in a Free Industrial Zone, is a Georgian company conducting its activities in a Free Warehouse that is granted with such status for the purpose of tax benefits defined by the TCG. The status of a Free Warehouse Company can be obtained:

- ▶ based on the application filed by the authorised person of a company for the following calendar years, or
- ▶ upon the state registration of a company for the current and following calendar years.

A certificate of status is issued to the company.

The status of a Free Warehouse Company is cancelled for the calendar year:

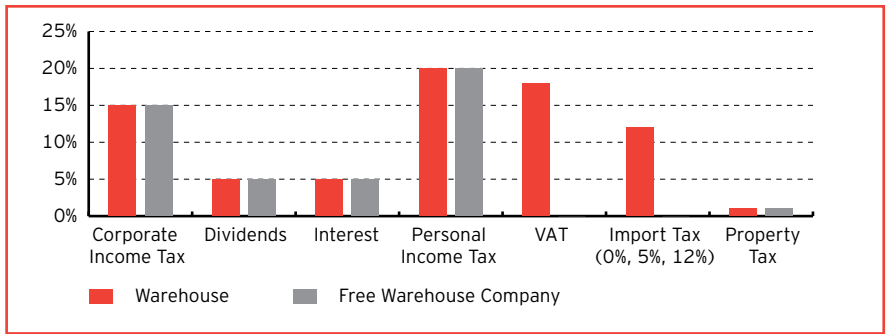
- ▶ indicated in the application filed by the authorized person of a company regarding the cancellation of the status;
- ▶ when the goods of a company in a free warehouse are placed in any operational regime except for re-exporting;
- ▶ when the company conducted economic activity that is not permitted in a Free Warehouse.

Permitted activities include:

- ▶ Storage of foreign goods;
- ▶ Sale of foreign goods in Free Warehouse;
- ▶ Storage of goods for the purpose of re-exporting.

#### Tax Benefits

A Free Warehouse Company benefits from certain tax exemptions discussed below that are also illustrated in the following graph.



- ▶ Income received by a Free Warehouse Company from re-exporting of goods from a Free Warehouse is exempt from corporate income taxation. This exemption also applies to a PE of a foreign company that operates a Free Warehouse Company in Georgia. A Free Warehouse Company deducts expenses from its gross income according to the proportion of the income received from sale of re-exported goods in the gross income.
- ▶ Supply of goods to a VAT payer in a Free Warehouse is exempt from VAT taxation, without the right to reclaim input VAT;
- ▶ Export in general is exempt from VAT with the right to reclaim input VAT, for the declaration period only. This exemption applies to a Free Warehouse Company as well.
- ▶ Bringing foreign goods into the economic territory of Georgia and placing them in a Free Warehouse operational regime is not considered import of goods, thus import tax is not due upon the goods crossing the economic border of Georgia.

No carry back or carry forward of losses is allowed for a Free Warehouse Company.

### **3.6.4 Free Industrial Zone Company**

#### **Granting and Cancellation of the Status**

A company operating in a Free Industrial Zone may be granted the status of an International Company for the purpose of tax benefits. The status of an International Company can be obtained based on the application filed by the authorised person of a company.

A certificate of status is issued to the company.

Status of International Company is cancelled for:

- ▶ a calendar year that is indicated in the application filed by the authorised person of a company regarding the cancellation of the status.
- ▶ Further, the status is subject to cancellation if an International Company:
  - ▶ supplies goods and/or services outside the Free Industrial Zone in the economic territory of Georgia;
  - ▶ supplies goods and/or services within the Free Industrial Zone to another company without the status of an International Company;
  - ▶ receives services from a Georgian registered taxpayer not having the status of an International Company.

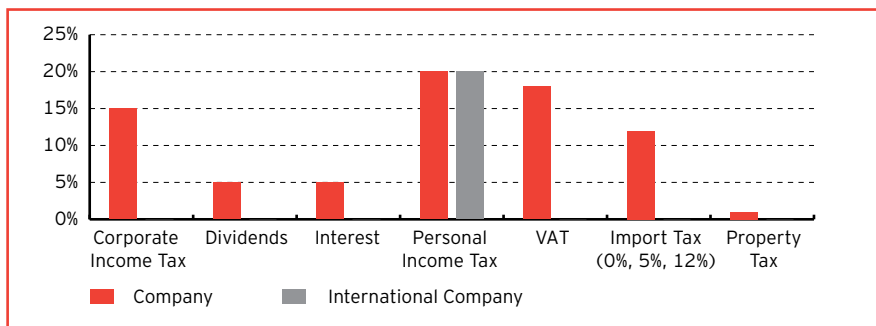
Permitted supplies to International Companies include:

- ▶ Supply of security and/or property rental services to an International Company by an organizer and/or administrator of a Free Industrial Zone;
- ▶ Supply of transportation, communication, water supply, sewerage, audit and/or consulting services;

- ▶ Conduct of financial operations and/or supply of financial services by licensed financial institutions;
- ▶ Supply of fuel, lubricants, electricity, water and natural gas;
- ▶ Supply of fixed assets construction and installation services;
- ▶ Supply of services defined by the Government.

## Tax Benefits

An International Company benefits from dozens of tax exemptions, discussed below, that are also illustrated in the following graph.



- ▶ Income of an International Company including the PE of a foreign company operating as an International Company in a Free Industrial Zone in Georgia is exempt from corporate income taxation.
- ▶ Interest and dividends paid by an International Company are not taxed at source, and are not further included in the gross income of a receiver.
- ▶ A Free Industrial Zone company, including an International Company, has no obligation to withhold personal income tax upon the salary payments to its resident employees.
- ▶ Supply of goods/services between the Free Industrial Zone companies is exempt from VAT taxation, without the right to reclaim input VAT.
- ▶ Export in general is exempt from VAT with the right to reclaim input VAT, for the declaration period only. This exemption applies to a Free Warehouse Company as well.
- ▶ A Free Industrial Zone company, including an International Company, is not liable to assessment and paying RCVAT on non-resident services.
- ▶ Import of goods produced in a Free Industrial Zone into the economic territory of Georgia is exempt from import tax.
- ▶ Property, including land, located in a Free Industrial Zone is exempt from property taxation.

No carry back or carry forward of losses is allowed for an International Company.

3.6.5 Free Tourist Zone at the Black Sea Shore

Recently a Free Tourist Zone was established in Kobuleti at the Black Sea shore with the aim to develop tourism infrastructure in Georgia. In particular, a wide range of investment incentives are offered to the investors focusing on hotel businesses.

Investors are offered a unique opportunity to develop a hotel business with minimum tax burden. Investors providing hotel services in a Kobuleti Free Tourist Zone enjoy the following tax exemptions till 2026, that are also illustrated in the graph below.

- ▶ Income received from supply of hotel services is exempt from corporate income tax;
- ▶ Property located in a Kobuleti Free Tourist Zone is exempt from property tax.

In addition, land spots are supplied to investors free of charge and all communal infrastructure (electricity, water and gas supply) is in place.



## 4. Tax Administration

### 4.1 Tax Assessments

The Georgian taxation system represents a self-assessment system under which taxes are calculated, paid, and reported in accordance with prevailing tax legislation and regulations. Property tax for individuals is calculated by the GTA based on tax returns filed, and a notification of the amount of tax assessed is thereby issued.

### 4.2 Statute of Limitation

The statute of limitation in Georgia is 6 years. It is automatically extended to 11 years when a taxpayer chooses a 10-year carry forward of losses. Tax cannot be reassessed after this period has elapsed.

If a taxpayer files a tax return, commodity declaration, or calculation (including amended forms) within less than 12 calendar months until the end of a 6-year (11-year) period, the statute of limitation is extended by one year for tax accruals made based on these returns or calculations.

### 4.3 Late Payment Interest and Penalties

|                                                                                        |                                                                                                                                                         |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Late payment of tax                                                                    | 0.07% of the tax due for each complete/incomplete overdue day                                                                                           |
| Late filing of tax return                                                              | 5% of the tax stated in the tax return for each complete/ incomplete overdue month minimum GEL 200 and maximum 30% of the tax stated in the tax return. |
| Understatement of tax liability/overstatement of tax credit in a tax return:           |                                                                                                                                                         |
| Up to 50%                                                                              | 50% of the understated amount                                                                                                                           |
| 50% and more                                                                           | 75% of the understated amount (for more than GEL 25,000 criminal proceedings may also be instituted)                                                    |
| crediting tax based on bogus operations or fictitious agreements or fake VAT documents | 200% of credited tax                                                                                                                                    |

Note: There are some other penalties envisaged in the tax legislation of Georgia.

### 4.4 Filing of Tax Returns

If a taxpayer applies to the GTA for an extension of the deadline for submitting a personal income tax, corporate income tax, or property tax return before the deadline expires, and has made the advance tax payments (or has no such obligation) due for the current tax year, the deadline will be automatically extended for a further three months. The granting of an extension does not affect the deadline for advance tax payments and does not suspend assessment of late payment interest on unpaid taxes.

If a taxpayer identifies changes leading to a reduction or increase of the tax liability in the submitted tax return, it is their responsibility to submit corresponding amendments to the tax return.

A taxpayer may submit the tax return either personally, electronically (see section “E-services”) or send it via the insured mail.

## 4.5 Measures to Ensure Fulfilment of Tax liabilities

Fulfilment of tax liabilities can be pursued by the GTA, using the following measures:

- ▶ Collection of funds from taxpayer’s bank account;
- ▶ Withdrawal of cash from taxpayer’s cash-desk;
- ▶ Tax lien/hypothecation;
- ▶ Enforcement of payment on a third party;
- ▶ Seizure of taxpayer’s property;
- ▶ Disposal of taxpayer’s seized property;

The GTA are entitled to choose the sequence of these measures.

A decision to cease enforcement measures is made by the Minister, a person authorised by the Minister, or the Head of the RS. A decision to cease enforcement measures up to one year will be made by the Head of the GTA, if a taxpayer has signed a guarantee contract or submitted a bank guarantee to the GTA to ensure the fulfilment of tax liabilities.

The cessation of enforcement measures to fulfil tax liabilities does not release taxpayer from late payment interest on overdue taxes.

## 4.6 Tax Control Procedures

Tax control procedures include:

- ▶ Current tax control procedures;
- ▶ Tax audit.

### 4.6.1 Current Tax Control Procedures

The GTA may carry out current tax control procedures over taxpayer activities without preliminary notification. It can be done during official working hours and/or during any actual working period and the taxpayer is allowed to attend these procedures.

#### Chronometric examination

Chronometric examination implies carrying out observation by the GTA on economic activities of a taxpayer to determine the taxpayer’s income, volume of supplied goods/services and number of employees. Such examination is performed for at least 7 days by non-stop recording of the volume of produced and/or supplied goods/services by a taxpayer during a workday.

Taxpayer will be penalized on the difference between the turnover of the continuous 7 days determined by chronometric examination (excluding the highest and the lowest figures) and the turnover of the previous continuous 7 days presented by taxpayer (excluding the highest and the lowest figures).

The penalty will be imposed only if the difference exceeds a threshold defined by the Government that may not be less than 10%. The penalty will be calculated as 20 times the difference. Herewith, the penalty is limited to a maximum of GEL 100,000 if the turnover of continuous 7 days determined by chronometric examination (excluding the highest and the lowest figures ) does not exceed GEL 25,000.

### **Stock-Taking**

The purpose of inventory stock-taking is comparison of the accounting records of the taxpayer and any relevant inventory holdings.

The GTA have a right to carry out inventory stock-taking of a person owning excisable goods under the order of the Head of the GTA. If a person owns non-excisable goods, the order of the Head of the GTA is required for carrying out stock-taking twice a year, and the order of the Head/Deputy of the RS is required for the third time.

A director of the taxpayer shall set up a stock-taking commission within 2 working days from receiving the above mentioned order. The composition of the commission includes a tax inspector, if requested by the GTA.

Alternatively, the Head of the GTA may set up a stock-taking commission. The composition may include the taxpayer.

Lack of inventory holdings will be penalized by 50% of the market value of such holdings. In case of surplus inventory the penalty is significant and amounts to 200% of the market value.

There are some other types of current tax control procedures that may be carried out by the GTA:

- ▶ Inspection;
- ▶ Test purchases of good/services;
- ▶ Control over the adherence to the rules for use of cash machines.

### **4.6.2 Tax Audit**

Tax legislation of Georgia envisages two types of tax audit: desk and field audits.

#### **Desk Audit**

Under the desk audit, the tax auditor, without visiting taxpayer's place of activity, determines the consistency of taxpayer tax liabilities according to the requirements of the TCG, based on analysis of financial reports, tax returns and other data in the possession of the GTA. If errors are revealed during the desk audit, the taxpayer is notified about them in writing.

## Field Audit

A field audit consists of a full or random audit of documents related to the calculation of taxes. It is carried out at taxpayer's place of activity. Field tax audit can be either planned or controlling. For a planned field audit taxpayer will receive a notification letter in advance, but not for a controlling field audit. Field audits normally last no longer than 3 months (plus 2 months in coordination with the Head of the RS). The auditors may request accounting documents and/or copies of information related to taxation that is verified by the taxpayer. In case of taxpayer's refusal to provide mentioned documentation, auditors are entitled to remove original documents, but must return them by the end of the field audit.

### 4.7 Tax Deal

With the aim of reducing taxes and/or tax sanctions due, the taxpayer may apply to the RS. The decision about a tax deal is made by the Government. Based on this decision a tax deal act (the Act) is concluded between taxpayer and the RS.

The Act defines the revised amount of tax liabilities and the terms of payment. In case of violation of the terms of payment under a tax deal, a late payment interest of 0.5% will be imposed for every overdue day, but up to 10% of the tax liability.

### 4.8 Tax Dispute Resolution

Taxpayer may appeal against the decisions of the GTA in the following circumstances:

- ▶ The GTA refuse to satisfy taxpayer's legitimate request;
- ▶ Taxpayer does not agree with tax charges imposed by the GTA.
- ▶ Taxpayer does not agree with any decision and/or action of the GTA against them.

Taxpayer may appeal the decision of the GTA either to the Ministry or directly to the Court within 20 calendar days from receipt of the decision. Taxpayer may submit the appeal either in written or electronic form (see section "E-services").

If taxpayer chooses to appeal to the Ministry, the dispute may be resolved in the first instance by the RS or may be escalated to the DSR.

Taxpayer or their authorized representative is entitled to attend each stage of the appeal review process. The RS has 20 calendar days to review the appeal and 5 working days to send an official resolution to the taxpayer. If taxpayer does not receive a response from the RS within this deadline, the appeal is considered as rejected, and taxpayer has the right to object to the RS decision within 10 calendar days from receipt of the rejection or from the deadline within which it should have been received. The objection can be addressed to the DRC or to the Court.

The DRC must take a decision on the appeal within 20 calendar days and send taxpayer the resolution within 5 working days. The resolution can be further appealed within 10 calendar days from its receipt. If not appealed, on the 11th calendar day the resolution becomes effective.

If taxpayer chooses to address the appeal to the Court, they must do this within the same deadlines as established for appeal to the Ministry.

If taxpayer does not present their appeal within the deadlines at any stage of the dispute process, the decision of the GTA under dispute comes into force and an appeal submitted without adhering to the deadlines will not be considered.

The liability to pay the amount under dispute, as well as assessed late payment interest and penalties, is halted during the dispute period, but the accrual of late payment interest on the disputed amount, still continues.

Upon commencement of a dispute, taxpayer must present evidence that they have:

- ▶ a bank guarantee;
- ▶ a guarantee agreement;
- ▶ an insurance policy issued by the authorized entities defined by the Government Decree;
- ▶ placed their own property under the right of tax lien/hypothecation.

The total value of guarantees presented shall not be less than the amount under dispute. If taxpayer does not present the above guarantees, or if the dispute is not resolved in their favour, the GTA are authorized to use enforcement measures for the amount of disputed tax liabilities without a Court order. These measures include:

- ▶ Tax lien/hypothecation;
- ▶ Seizure of property (including bank accounts).

If a tax dispute is resolved in taxpayer's favour, their secured guarantees as well as any enforcement measures initiated by the GTA will be annulled.

## 4.9 Tax Ombudsman

A newly introduced tax ombudsman is a person appointed by the Prime Minister of Georgia in coordination with the Chairman of the Parliament of Georgia. The functions of a tax ombudsman include:

- ▶ Monitoring the protection of taxpayers' rights and their legitimate interests, disclosing violations and taking remedial actions;
- ▶ Considering taxpayers' claims regarding the violation of their rights by the GTA or other Government bodies;
- ▶ Obtaining the explanations from the GTA regarding the taxpayers' claims;
- ▶ Providing recommendations to the respective body on the means of restoring the violated rights of taxpayers;
- ▶ Presenting an annual report to the Parliament of Georgia providing a general overview of taxpayers' rights protection. The ombudsman report should also contain general assessments, conclusions, and recommendations in relation to the protection of taxpayers' rights.

## 4.10 Advance Tax Ruling

The RS is authorized to issue advance tax ruling upon taxpayer's request. The ruling shall stipulate the GTA's view about taxpayer's reporting obligations and/or tax liabilities arising out of the transactions that either have already been carried out or will be carried out in the future. Advance tax rulings may also be issued for determination of the classification code number according to the Commodity Nomenclature or country of origin of the goods.

An advance tax ruling is issued within 60 days from submission of the request by taxpayer and is effective only for the latter. If the person acts in accordance with the advance tax ruling, the GTA shall not impose additional taxes and/or tax sanctions later on.

An advance tax ruling becomes invalid if:

- ▶ the facts and circumstances mentioned in the advance tax ruling are different from actual ones;
- ▶ the provisions of the TCG upon which advance tax rulings were based have been cancelled or amended.

An advance tax ruling on Commodity Nomenclature code or country of origin of the goods shall be issued before filing the commodity declaration at the economic border of Georgia, and is valid for 3 years only for the goods specified in the ruling.

An advance tax ruling can be appealed by the taxpayer.

## 4.11 Private Tax Agent

A taxpayer can use the services of a private tax agent, who is a tax inspector of the GTA, in order to improve communications with the GTA. The agreement concluded between a taxpayer and a private tax agent defines the rules and conditions of providing the services. Determination of the amount of tax liability of a taxpayer is excluded from duties of a private tax agent.

## 4.12 E-services

### E-filing

The RS offers taxpayers a wide range of electronic services. Taxpayers may conduct correspondence and/or filing with the tax authorities electronically via the web-portal of the RS.

Electronic correspondence and/or filing includes:

- ▶ Filing a tax return;
- ▶ Filing an application requesting tax invoices;
- ▶ Filing an application requesting excise duties;
- ▶ Filing an appeal, etc.

Electronic documents sent by taxpayers and/or tax authorities have legal force equal to paper documents.

A taxpayer may register voluntarily for e-services within 3 working days from submission of the application. A taxpayer may de-register from e-services in favour of paper forms again. Registration/de-registration for e-services can also be conducted online via a video-call with the tax inspector.

### **E-paying**

Online payment tool was added to the e-filing system of the RS.

## 5. Movement of Goods in the Economic Territory of Georgia

The economic territory of Georgia shall comprise the land area of Georgia, the territorial and internal waters of Georgia, and the airspace above the territory. The economic territory of Georgia also comprises the areas of installations and structures created in a special marine economic zone and synthetic islands to which the special jurisdiction of Georgia extends.

The economic border coincides with the state border of Georgia.

### 5.1 State Control Procedures

The RS is responsible to conduct certain control procedures that ensure the fulfilment of requirements of the legislation related with the movement of goods in the economic territory of Georgia. The state control is exercised in the control zone that is part of the economic territory of Georgia, and aims to check the correctness of the information declared by declarant.

Subject to state control are:

- ▶ individuals crossing the border;
- ▶ goods and transportation means under state supervision, which implies conduct of a set of measures by the RS in order to comply with trade policy measures , limitations and prohibitions;
- ▶ territory, where the goods and transportation means subject to state supervision are located;
- ▶ activities of a person related to the goods and transportation means in the economic territory of Georgia.

The forms of state control are:

- ▶ check of documentation and data;
- ▶ oral enquiry;
- ▶ obtaining explanations;
- ▶ observation (video and audio recording);
- ▶ inspection of goods, transportation means and territory;
- ▶ sample selection for laboratory research purposes;
- ▶ inspection of an individual;
- ▶ check after release of the goods;
- ▶ conduct of phytosanitary, veterinary and sanitary control of goods.

### 5.2 General Declaration

Declarant and/or owner of the goods must submit the goods at Portal or any other place defined by the Minister upon bringing into or taking out of the territory of Georgia. This rule does not apply to goods moving through pipelines, electronic

transmission wires, or by air and water transportation on the borders of the economic territory of Georgia.

The declarant shall file a general declaration before bringing the goods into the economic territory of Georgia or upon their submission. After the general declaration process the goods are subject to formalization procedures in portal, terminal or any other place defined by the Minister before or after bringing them into the economic territory of Georgia. Goods stay under the state supervision from the moment of bringing them into the economic territory of Georgia, until completion of the formalization procedures.

The declarant shall file a general declaration before taking the goods out of the economic territory of Georgia. The goods are subject to formalization procedures in portal, terminal, or any other place defined by the Minister, before taking them out of the economic territory of Georgia. Such goods stay under state supervision from the moment of formalization, until taking them out of the economic territory of Georgia.

### 5.3 Formalization Procedures

Operation on goods must be selected within 30 days from the completion of general declaration. The terms can be reduced or extended by 60 days by the RS.

Thus, after a general declaration and submission of the goods, a declarant shall file the commodity declaration for the purpose of formalizing the goods. Based on this declaration the operation on goods is determined. From the moment of its registration, a commodity declaration certifies the facts of legal nature, if not defined otherwise by the TCG. Due to an increased number of goods or increase in their value, the registered commodity declaration can be amended by the declarant without incurring a penalty:

- ▶ before release of the goods, if the RS has not notified the declarant about the intention to check the filed commodity declaration or has not revealed that the information contained in the declaration is misleading;
- ▶ after release of the goods, before initiation of a post-release check.

During international air, railway and sea flights, the goods supplied for the personal use of passengers and crew members, also water, fuel and lubricants (except for spare parts and equipments) needed for normal exploitation conditions, are not subject to declaration process.

After checking the commodity declaration, the goods shall be released immediately if all requirements of the law are fulfilled. The state supervision and control may still be retained on released goods.

The RS can exercise disposal activities on goods if:

- ▶ it is impossible to determine the operation on goods due to declarant's reason or the latter has not paid import/export duties and/or has not submitted the guarantee securing its liabilities;

- ▶ it is prohibited or restricted to bring in or take out the goods of the economic territory of Georgia;
- ▶ the goods were not taken out of the control zone within 3 days from release, except for certain cases.

The disposal activities include:

- ▶ Deprivation of illegal goods and transportation means;
- ▶ Realization of goods and transportation means;
- ▶ Destruction of goods;
- ▶ Transfer of goods into state ownership.

The RS shall notify the declarant about its intention of disposal activities. The declarant can either eliminate the deficiencies within 30 days from notification or re-export the goods in order to avoid the destructions of goods or their transfer into state ownership.

The disposal activities that can be conducted by the declarant under the supervision of the RS include:

- ▶ Destruction of goods;
- ▶ Transfer of goods into the state ownership.

#### 5.4 Tariff Value of Goods

Declarant and/or owner of the goods, moving these goods in the economic territory of Georgia, shall value the goods, i.e. determine their tariff value by the declaration date. The RS checks the correctness of valuation by the declarant, and in case of disagreement, values the goods on its own.

The following methods are used for valuing the goods upon import:

- ▶ 1st method: the transaction value of goods;
- ▶ 2nd method: the transaction value of identical goods;
- ▶ 3rd method: the transaction value of similar goods;
- ▶ 4th method: the unit price of goods;
- ▶ 5th method: the computed value;
- ▶ 6th method: the reserve method.

Each next method is to be applied only when the application of the previous method is not possible. This is in accordance with the requirements of the WTO Customs Valuation Agreement, which Georgia must apply as a Member of the WTO. However, declarant can reverse the order of the 4th and 5th methods of valuation.

#### 5.5 Operations on Goods

Upon the formalization of the goods, the following operations on goods can be selected:

- ▶ Import;
- ▶ Export;
- ▶ Re-export
- ▶ Transit;
- ▶ Warehouse;
- ▶ Free Warehouse;
- ▶ Free Zone;
- ▶ Temporary import;
- ▶ Internal processing;
- ▶ External processing.

According to the conditions of the operations on goods, the declarant and/or owner of goods is liable to pay duties and/or submit the guarantee upon the formalization of the goods. The detailed rules about the use of operations on goods, and placing the goods within the operation, are determined by the Minister.

## 5.6 Import and Export Duties

The obligation to pay import/export duties for placing goods in any operational regime arises on the registration date of commodity declaration. If no declaration requirement exists, the obligation arises upon the registration of the relevant document at portal, terminal, or any other place defined by the Minister.

The obligation is determined based on the rates of import and export duties effective on the date the obligation arises.

Import duties include import tax, excise tax, and VAT due upon bringing the goods into the economic territory of Georgia.

Export duty is a tax due upon taking the goods out of the economic territory of Georgia.

## 5.7 Returned Goods

Georgian goods taken out from the economic territory of Georgia can be returned back within 3 years from the declaration if identifiable. No import duties will be payable upon the return of these goods provided that they are returned in the same condition as upon taking them out of the economic territory of Georgia.

## 5.8 Simplified Rules

A person on the “Gold List” can benefit from the simplified rules upon bringing goods into and/or taking them out of the economic territory of Georgia. In particular, such persons will benefit from simplified procedures at the border, and beneficial payment terms of import duties.

## 6. Agreements for the Avoidance of Double Taxation

Georgia has already entered into double tax treaty agreements with 30 countries: Armenia, Austria, Azerbaijan, Belgium, Bulgaria, the Czech Republic, China, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Iran, Ireland, Kazakhstan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Singapore, Turkey, Turkmenistan, Ukraine, United Kingdom and Uzbekistan. Georgia considers none of the tax treaties of the former USSR to be in force (for withholding taxation rates under these treaties see table “Double Tax Treaty Withholding Tax Rates” in Appendix).

Georgia has signed and ratified tax treaties with Egypt, Israel, Kuwait, Russia, Spain and Switzerland, but these treaties have not yet entered into force.

Tax treaties are initialled with Bahrain, Cyprus, India, Qatar, Slovakia, Slovenia and the United Arab Emirates.

Tax treaty negotiations are underway with Argentina, Belarus, Belize, Brazil, Jordan, Hungary, Lichtenstein, Marshall Islands, Norway, Panama, Portugal, Seychelles Islands, South Korea and Sweden.

Tax benefits granted by these tax treaties can be utilized following the rules established by the Instruction of the Minister (see section “Withholding Taxation”).

## 7. Establishing a Legal Presence in Georgia

Choosing the right business structure is an important step towards starting business in Georgia. Business activities can be conducted in any of the legal forms listed below. The Law of Georgia on Entrepreneurs (Georgian company law) regulates legal procedures for establishing a legal presence in Georgia. Business structure shall be deemed established only after its registration in the registry of legal persons at the Agency.

According to the Law of Georgia on Public Register, there is also an accelerated registration service. For example, if an interested party wishes to register their business structure (except for Individual Enterprises<sup>1</sup>) on their application submission date, then such interested party should pay GEL 200 as the fee for accelerated registration service<sup>2</sup>. However, the fee for registration of a business structure within one business day is GEL 100. Any person wishing to establish a business entity and/or branch office in Georgia must file all documents, in accordance with company law, to the Agency. There are no restrictions on foreign ownership of companies in Georgia. Any of the business structures below can be set up with foreign participation.

Business structures permitted by Georgian legislation:

- ▶ **Joint Stock Company (JSC)** is a legal entity having capital divided into certain number and types of shares defined by the company charter. A JSC's liability to creditors is limited only by its property. Shareholders are not liable for the company's liabilities. Capital of a JSC can be any amount. A JSC is entitled to issue ordinary and preference shares if the company charter does not provide otherwise. An annual shareholders' meeting must be held within 2 months after the preparation of the balance sheet to consider the annual results and other issues, if company charter does not provide otherwise. A shareholders' meeting is not required if decisions are made by a shareholder who owns more than 75% of the capital of the company.
- ▶ **Limited Liability Company (LLC)** is a legal entity whose liability to creditors is limited to its property. Partners (founders) are not liable for company's liabilities. Capital of a LLC can be specified in any amount. The capital of an LLC is divided into shares. A Partners' meeting must be held to consider the annual results and other issues. An LLC can be founded by one person.
- ▶ **General Partnership (GP)** is a legal entity where two or more persons carry out entrepreneurial activities jointly under a single entity name. Partners are jointly liable to creditors with all their property. The liability of a partner is not limited.
- ▶ **Limited Partnership (LP)** is a legal entity where two or more persons carry out entrepreneurial activities under a single entity name. The liability of some partners (Limited Partners) to creditors is limited to a certain warranty amount, while the

1 Fee for registration of Individual Enterprise within one business day is GEL 20 (normal registration). Fee for registration of Individual Enterprise on application submission date is GEL 50 (accelerated registration).

2 Fee for registration of business structure involved in food/animal food production within one business day is GEL 15.

liability of other partners i.e. full partners (General Partners), is not limited. Partners of an LP can be both legal entities and individuals. Partners with limited liability (Limited Partners) are not allowed to participate in the management of the LP.

- ▶ **Cooperative (Co-op)** is a legal entity where its members carry out entrepreneurial activity mostly in agricultural or labour sectors. It is more oriented to satisfy the interests of its members, rather than to get profits. Co-op's liability to creditors is limited to its property. A general meeting must be held at least once a year to consider the annual results and other issues.
- ▶ **Individual Enterprise (IE)** - is not a legal entity under Georgian company law. An IE is personally liable to creditors.
- ▶ **Branch Office (BO)** is the structural sub-unit of a business entity and is not a separate legal entity.

Auditing of financial statements of Georgian business entities is not obligatory except for banks, insurance companies, companies listed on the stock exchange, and for some other businesses.

Most foreign investors set themselves up as Limited Liability Companies, Joint Stock Companies, or Branch Offices to do business in Georgia.

# Appendix

## Tables

### Tax Calendar

| Period / Type of Tax                                                                      | Tax Payment Deadline                                                                                                                                                                                                                  | Tax Return Filing Deadline                        |
|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| <b>Monthly Tax Obligations</b>                                                            |                                                                                                                                                                                                                                       |                                                   |
| Personal or Corporate Income Tax subject to withholding at the source of payment          | upon payment of the income (on last working day of the month for non-monetary benefits)                                                                                                                                               | 15th of the month following the reporting period  |
| Value Added Tax                                                                           | 15th of the month following the reporting period                                                                                                                                                                                      | 15th of the month following the reporting period  |
| Excise Tax                                                                                | 15th of the month following the reporting quarter                                                                                                                                                                                     | 15th of the month following the reporting quarter |
| <b>Annual Tax Obligations</b>                                                             |                                                                                                                                                                                                                                       |                                                   |
| Corporate income tax and Personal income tax (individual entrepreneurs)                   | Tax payments are made during the tax year in four equal instalments at 25% of the previous tax year's liability by 15 May, 15 July, 15 September and 15 December. The balancing payment is made before 1 April of the following year. | before 1 April of the following year              |
| Small Business                                                                            | Tax payments are made during the tax year in four equal instalments at 25% of the previous tax year's liability by 15 April, 15 July, 15 October and 15 January. The balancing payment is made before 1 April of the following year.  | before 1 April of the following year              |
| Income Tax (individuals)                                                                  | before 1 April of the following year                                                                                                                                                                                                  | before 1 April of the following year              |
| Personal or Corporate Income Tax subject to withholding taxation at the source of payment | N/A                                                                                                                                                                                                                                   | 30 January of the following year                  |
| Property Tax for individuals (except for land)                                            | 15 November of the following year                                                                                                                                                                                                     | 1 May of the following year                       |
| Property Tax for individuals (on land)                                                    | 15 November of the year                                                                                                                                                                                                               | 1 May of the year                                 |
| Property Tax for entities and individual entrepreneurs (except for land)                  | Advance tax payment is made by 15 June of the year. The balancing payment is made by 1 April of the following year.                                                                                                                   | 1 April of the following year                     |
| Property Tax for entities and individual entrepreneurs (on land)                          | 15 November of the year                                                                                                                                                                                                               | 1 April of the year                               |

Note: Tax year is a calendar year.

## Fixed Assets Depreciation Rates

| Group | Assets                                                                                                                                                                                                                                                                                                                                  | Depreciation Rate (%) |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 1     | Passenger cars; automobile equipment for use on roads; office furniture; automotive transport rolling stock; trucks, buses, special automobiles and trailers; machinery and equipment for all sectors of industry and the foundry industry; forging and pressing equipment; construction equipment; agricultural vehicles and equipment | 20                    |
| 2     | Special instruments, inventory and equipment; computers, peripheral devices and data processing equipment; electronic devices                                                                                                                                                                                                           | 20                    |
| 3     | Railway, naval and river transport vehicles; power vehicles and equipment; thermal technical equipment, turbine equipment, electric engines and diesel generators, electricity transmission and communication facilities; pipelines                                                                                                     | 8                     |
| 4     | Buildings and premises                                                                                                                                                                                                                                                                                                                  | 5                     |
| 5     | Assets subject to depreciation not included in other groups                                                                                                                                                                                                                                                                             | 15                    |

## Excise Tax Rates

| #   | Name of Goods                                                                                                                                                  | Commodity No-<br>menclature Code | Measure-<br>ment Unit | Excise<br>Tax<br>Rates<br>(GEL) |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------|---------------------------------|
| 1.  | Other fermented beverages (cider, perry, mead); mixture of fermented beverages; and mixture of fermented beverages and soft drinks not specified in this table | 2206 00                          | 1 litre               | 2.50                            |
| 2.  | Ethyl spirit                                                                                                                                                   | 2207                             | 1 litre               | 2.60                            |
| 3.  | Spirits obtained by distilling grape wine or grape marc                                                                                                        | 2208 20                          | 1 litre               | 4.60                            |
| 4.  | Whisky                                                                                                                                                         | 2208 30                          | 1 litre               | 5.00                            |
| 5.  | Rum and Sugarcane tafia rum                                                                                                                                    | 2208 40                          | 1 litre               | 5.00                            |
| 6.  | Gin and wine liquor                                                                                                                                            | 2208 50                          | 1 litre               | 5.00                            |
| 7.  | Vodka                                                                                                                                                          | 2208 60                          | 1 litre               | 3.00                            |
| 8.  | Liquors and cordials                                                                                                                                           | 2208 70                          | 1 litre               | 4.60                            |
| 9.  | Other alcoholic beverages                                                                                                                                      | 2208 90                          | 1 litre               | 5.00                            |
| 10. | Beer                                                                                                                                                           | 2203 00                          | 1 litre               | 0.40                            |

| #   | Name of Goods                                                                                                                                                                                                            | Commodity No-<br>menclature Code                                 | Measure-<br>ment Unit                   | Excise<br>Tax<br>Rates<br>(GEL) |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------|---------------------------------|
| 11. | Tobacco products (except for tobacco raw materials):                                                                                                                                                                     |                                                                  |                                         |                                 |
|     | - cigars, cigars with cut ends containing tobacco                                                                                                                                                                        | 2402 10 000 01                                                   | 1 unit                                  | 0.90                            |
|     | - cigarillo (slim cigars) containing tobacco                                                                                                                                                                             | 2402 10 000 02                                                   | 20 units                                | 1.00                            |
|     | - filtered cigarettes containing tobacco                                                                                                                                                                                 | 2402 20                                                          | 20 units                                | 0.60                            |
|     | - all other unfiltered cigarettes and cigarette                                                                                                                                                                          | 2402 20                                                          | 20 units                                | 0.15                            |
|     | - other products produced from tobacco and its replacements, homogenized or restored tobacco, tobacco extracts and essences                                                                                              | 2403 (except for 2403 10 900 00, 2403 99 900 00, 2403 91 000 00) | 1 kg                                    | 20.00                           |
| 12. | Passenger cars (according to the difference between the year of the taxable transaction and issuance year, or, in the case of import - differences between registration of the commodity declaration and issuance year): | 8703                                                             | 1cm <sup>3</sup> of the engine capacity |                                 |
|     | Up to 1 year                                                                                                                                                                                                             |                                                                  |                                         | 1.50                            |
|     | 1 year                                                                                                                                                                                                                   |                                                                  |                                         | 1.50                            |
|     | 2 years                                                                                                                                                                                                                  |                                                                  |                                         | 1.40                            |
|     | 3 years                                                                                                                                                                                                                  |                                                                  |                                         | 1.30                            |
|     | 4 years                                                                                                                                                                                                                  |                                                                  |                                         | 1.20                            |
|     | 5 years                                                                                                                                                                                                                  |                                                                  |                                         | 1.00                            |
|     | 6 years                                                                                                                                                                                                                  |                                                                  |                                         | 0.70                            |
|     | 7 years                                                                                                                                                                                                                  |                                                                  |                                         | 0.50                            |
|     | 8 years                                                                                                                                                                                                                  |                                                                  |                                         | 0.50                            |
|     | 9 years                                                                                                                                                                                                                  |                                                                  |                                         | 0.50                            |
|     | 10 years                                                                                                                                                                                                                 |                                                                  |                                         | 0.50                            |
|     | 11 years                                                                                                                                                                                                                 |                                                                  |                                         | 0.50                            |
|     | 12 years                                                                                                                                                                                                                 |                                                                  |                                         | 0.50                            |
|     | 13 years                                                                                                                                                                                                                 |                                                                  |                                         | 0.60                            |
|     | 14 years                                                                                                                                                                                                                 |                                                                  |                                         | 0.70                            |
|     | more than 14 years                                                                                                                                                                                                       |                                                                  |                                         | 0.80                            |
| 13. | Condensed natural gas and natural gas, except for pipeline                                                                                                                                                               | 2709 00 100 00<br>2711 11 000 00<br>2711 21 000 00               | 1000m <sup>3</sup>                      | 80.00                           |
| 14. | Oil distillates                                                                                                                                                                                                          |                                                                  |                                         |                                 |
|     | light                                                                                                                                                                                                                    | 2710 11                                                          | 1 ton                                   | 250.00                          |
|     | medium                                                                                                                                                                                                                   | 2710 19 110 00 -<br>2710 19 290 00                               | 1 ton                                   | 220.00                          |
|     | heavy                                                                                                                                                                                                                    | 2710 19 310 00 -<br>2710 19 490 00                               | 1 ton                                   | 150.00                          |

| #   | Name of Goods                                                                                                                                                                                                                                                                                                                                           | Commodity Nomenclature Code                                                                                                                                                                                              | Measurement Unit | Excise Tax Rates (GEL) |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------------|
| 15  | Oil and other products borne from distillation of coal tar at high temperature, other similar productions in composition, of which the amount of aromatic components exceed amount of non-aromatic components (other than creosote oil indicated in this table, that are used to saturate wooden sleepers (4406 10 000 00) or produce carbons (2803 00) | 2707 (except for 2707 10 100 00 - 2707 50 000 00; 2707 91 000 00; 2707 99 800 00; 2707 99 910 00)                                                                                                                        | 1 ton            | 350.00                 |
| 16. | Oil gas and gas-like hydrocarbons                                                                                                                                                                                                                                                                                                                       | 2711 12<br>2711 13<br>2711 14 000 00<br>2711 19 000 00                                                                                                                                                                   | 1 ton            | 120.00                 |
| 17. | Oil and oil products produced from bituminous minerals, except for crude oil; products, not indicated elsewhere, oil and oil products produced from bituminous minerals with consistency of 70% or more. At the same time this oil represents the main component of the products.                                                                       | 2710 (except for 2710 11 110 00 - 2710 19 490 00, 2710 19 510 00 - 2710 19 690                                                                                                                                           | 1 ton            | 400.00                 |
| 18. | Liquid products of pyrolysis                                                                                                                                                                                                                                                                                                                            | 3911 90                                                                                                                                                                                                                  | 1 ton            | 400.00                 |
| 19. | Additives, solvent, antiknock                                                                                                                                                                                                                                                                                                                           | 2707 10 100 00 - 2707 50 900 00 (except for 2707 40 000 00); 2707 99 800 00; 2712 20; 2902 11 100 00 - 2902 30 900 00; 2905 11 000 00 - 2905 16 800 00; 3811 11 100 00 - 3811 90 000 00; 3814 00 100 00 - 3814 00 900 00 | 1 ton            | 400.00                 |
| 20. | Lubricant minerals and means                                                                                                                                                                                                                                                                                                                            | 3403 11 000 00<br>3403 19 100 00<br>3403 19 910 00<br>3403 19 990 00<br>3403 91 000 00<br>3403 99 100 00<br>3403 99 900 00                                                                                               | 1 ton            | 400.00                 |
| 21. | Worked-out oil products - water contaminated with oil, tank (storage container of oil products) washing                                                                                                                                                                                                                                                 | 2710 99 000 00                                                                                                                                                                                                           | 1 ton            | 50.00                  |
|     | Other worked-out oil products                                                                                                                                                                                                                                                                                                                           | 2710 99 000 00                                                                                                                                                                                                           | 1 ton            | 400.00                 |

## Double Tax Treaty Withholding Tax Rates

| Country              | Dividends  | Interest | Royalties  |
|----------------------|------------|----------|------------|
| Armenia              | 5/10 (a)   | 10       | 5          |
| Austria              | 0/5/10 (b) | 0        | 0          |
| Azerbaijan           | 10         | 10       | 10         |
| Belgium              | 5/15 (c)   | 0/10 (d) | 5/10 (e)   |
| Bulgaria             | 10         | 10       | 10         |
| China                | 0/5/10 (b) | 10       | 5          |
| Czech Republic       | 5/10 (f)   | 0/8 (g)  | 0/5/10 (h) |
| Denmark              | 0/5/10 (i) | 0        | 0          |
| Estonia              | 5/15 (j)   | 10       | 10         |
| Finland              | 0/5/10 (k) | 0        | 0          |
| France               | 0/5/10 (l) | 0        | 0          |
| Germany              | 0/5/10 (m) | 0        | 0          |
| Greece               | 8          | 8        | 5          |
| Iran                 | 5/10 (a)   | 10       | 5          |
| Ireland              | 0/5/10 (n) | 0        | 0          |
| Italy                | 5/10 (e)   | 0        | 0          |
| Kazakhstan           | 15         | 10       | 10         |
| Latvia               | 5/10 (o)   | 10       | 10         |
| Lithuania            | 5/15 (p)   | 10       | 10         |
| Luxemburg            | 0/5/10 (q) | 0        | 0          |
| Malta                | 0          | 0        | 0          |
| The Netherlands      | 0/5/15 (r) | 0        | 0          |
| Poland               | 10         | 10       | 10         |
| Romania              | 8          | 10       | 5          |
| Singapore            | 0          | 0        | 0          |
| Turkey               | 10         | 10       | 10         |
| Turkmenistan         | 10         | 10       | 10         |
| Ukraine              | 5/10 (a)   | 10       | 10         |
| United Kingdom       | 0/5/10 (s) | 0        | 0          |
| Uzbekistan           | 5/15 (t)   | 10       | 10         |
| Non-treaty countries | 5          | 5        | 15         |

Note that whenever the treaty withholding tax rate is above the rate established by the TCG, the TCG rate applies.

- (a) The 5% rate applies if the actual recipient is a company (except for partnership) that holds directly at least 25% share in the capital of the payer of the dividend. The 10% rate applies in all other cases;
- (b) The 0% rate applies if the beneficial owner is a company that holds directly or indirectly at least 50% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 2 million (or the equivalent amount in GEL). The 5% rate applies if the beneficial owner is a company that holds directly or indirectly at least 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100,000 (or the equivalent amount in GEL). The 10% rate applies in all other cases;
- (c) The 5% rate applies if the beneficial owner is a company that holds at least 25% share in the capital of the payer of the dividend. The 15% rate applies in all other cases;

- (d) The 0% rate applies if the recipient is the beneficial owner of the interest on commercial debt-claims, including debt-claims represented by commercial paper, resulting from deferred payments for goods, merchandise or services supplied by an enterprise. The 0% rate applies if the recipient is the beneficial owner of the interest on loans of any nature, not represented by bearer instruments, granted by a banking enterprise. The 10% rate applies in all other cases;
- (e) The 5% rate applies, if the beneficial owner of the royalty is a legal entity. The 10% rate applies in all other cases;
- (f) The 5% rate applies if the beneficial owner is a company (except for partnership) that holds directly at least 25% share in the capital of the payer of the dividend. The 10% rate applies in all other cases;
- (g) The 0% rate applies if the recipient is the beneficial owner of the interest on the sale on credit of any industrial, commercial or scientific equipment. The 8% rate applies in all other cases;
- (h) The 0% rate applies if the recipient is the beneficial owner of the royalties paid for the use of, or the right to use any copyright of literary, artistic or scientific work except for computer software and including cinematograph films, and films or tapes for television or radio broadcasting. The 5% rate applies if the recipient is the beneficial owner of the royalties paid for the use of, or the right to use any industrial, commercial or scientific equipment. The 10% rate applies if the recipient is the beneficial owner of the royalties paid for the use of, or the right to use any patent, trade mark, design or model, plan, secret formula or process and computer software, or for information concerning industrial, commercial, or scientific experience;
- (i) The 0% rate applies if the actual recipient is a company that holds directly or indirectly at least a 50% share in the capital of the payer of the dividend and has invested in the payer more than EUR 2 million (or the equivalent amount in Danish Krone (DKK) or GEL). The 5% rate applies if the actual recipient is a company that holds directly or indirectly at least a 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in DKK or GEL). The 10% rate applies in all other cases;
- (j) The 5% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 25% share in the capital of the payer of the dividend, and has invested in the payer at least EUR 100,000 (or the equivalent amount in GEL). The 15% rate applies in all other cases;
- (k) The 0% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 50% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 2 million (or the equivalent amount in GEL). The 5% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in GEL). The 10% rate applies in all other cases;
- (l) The 0% rate applies if the actual recipient is a company that holds directly or indirectly at least a 50% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 3 million (or the equivalent amount in GEL). The 5% rate applies if the actual recipient is a company that holds directly or indirectly at least a 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in GEL). The 10% rate applies in all other cases;
- (m) The 0% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 50% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 3 million (or the equivalent amount in any currency). The 5% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in any currency). The 10% rate applies in all other cases;
- (n) The 0% rate applies if the beneficial owner is a company that holds directly or indirectly at least 50% of the voting rights in the company paying the dividends, and that has invested in the payer at least EUR 3 million (or the equivalent amount in GEL). The 5% rate applies if the beneficial owner is a company that holds directly or indirectly at least 10% of the voting rights in the payer of the dividends, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in GEL). The 10% rate applies in all other cases;
- (o) The 5% rate applies if the beneficial owner is a company (except for partnership) that holds directly at least a 25% share in the capital of the payer of the dividend, and that has invested in the payer more than USD 75, 000. The 10% rate applies in all other cases;
- (p) The 5% rate applies if the beneficial owner is a company (except for partnership) that holds directly at least a 25% share in the capital of the payer of the dividend, and that has invested in the payer at least EUR 75, 000. The 15% rate applies in all other cases;

- (q) The 0% rate applies if the actual recipient is a company that holds directly or indirectly at least a 50% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 2 million (or the equivalent amount in GEL). The 5% rate applies if the actual recipient is a company that holds directly or indirectly at least a 10% share in the capital of the payer of the dividend, and that has invested in the payer more than EUR 100, 000 (or the equivalent amount in GEL). The 10% rate applies in all other cases;
- (r) The 0% rate applies if the beneficial owner is a company that holds directly or indirectly at least a 50% share in the capital of the payer of the dividend, and that has invested in the payer more than USD 2 million (or the equivalent amount in Euro or GEL). The 5% rate applies if the recipient is a company that holds at least 10% share in the capital of the payer of the dividend. The 15% rate applies in all other cases;
- (s) The 0% rate applies if the beneficial owner is a company that holds directly or indirectly at least 50% of the voting rights in the company paying the dividends, and that has invested in the capital of the payer at least GBP 2 million (or the equivalent amount in GEL). The 5% rate applies if the beneficial owner is a company that holds directly or indirectly at least 10% of the voting rights in the company paying the dividends. The 10% rate applies in all other cases;
- (t) The 5% rate applies if the actual recipient is a company (except for partnership) that holds directly at least a 25% share in the capital of the payer of the dividend. The 15% rate applies in all other cases;

## Illustrations

### Tax Problems and Solutions

#### Case 1: Personal Income Tax

##### Background information

During the tax year (the same as a calendar year) of 2011, a tax registered resident individual, who is married and has two dependent children, received the following income from a source in Georgia: base salary of GEL 30,000, benefits from the employer-paid health insurance plan in the amount of GEL 1,500 per year, net interest and dividend income in the amount of GEL 2,700, and GEL 900 respectively, net income from renting out the apartment in the amount of GEL 12,000.

##### Calculation of annual income taxable in Georgia (tax base)

|                                              | GEL    | Notes |
|----------------------------------------------|--------|-------|
| Base salary                                  | 30,000 | (a)   |
| Employment benefit form health insurance     | 1,875  | (b)   |
| Total employment income                      | 31,875 |       |
| Interest and dividend incomes                | 3,789  | (c)   |
| Rent income                                  | 15,000 | (d)   |
| Total gross annual income taxable in Georgia | 50,664 |       |

Notes:

- (a) No marital status, dependency or other type of allowances are taken into consideration while calculating a taxable income of an individual;
- (b) Net employment benefit from health insurance equalled GEL 1,500. In order to arrive at the gross benefit of GEL 1,875 the net benefit is grossed up for a flat 20% personal income tax rate applied to employment income ( $1,500 / (100\% - 20\%) = 1,875$ );
- (c) Net interest and dividend income amounted to GEL 3,600 ( $2,700 + 900 = 3,600$ ). As those two types of income are taxed at the source of payment in Georgia at a flat 5% rate, the net amount is grossed up to arrive to the gross income of GEL 3,789 ( $3,600 / (100\% - 5\%) = 3,789$ );
- (d) As rent income received by resident individual is taxed at the source of payment in Georgia at a flat 20% rate, the net amount is grossed up by 20% rate to arrive to the gross income of GEL 15 000 ( $12\,000 / (100\% - 20\%) = 15\,000$ ).

### Calculation of personal income tax

|                                              | Tax base, |          | Tax amount, |       |
|----------------------------------------------|-----------|----------|-------------|-------|
|                                              | GEL       | Tax rate | GEL         | Notes |
| Employment income                            | 31,875    | 20%      | 6,375       | (e)   |
| Interest and dividend incomes                | 3,789     | 5%       | 189         | (f)   |
| Rent income                                  | 15,000    | 20%      | 3,000       | (g)   |
| Total taxable income and personal income tax | 50,664    |          | 9,564       |       |
| Personal income tax withheld at source       |           |          | 9,564       |       |
| Personal income tax payable                  |           |          | 0           |       |

Notes:

- (e) Employment income is taxed at source at a flat 20% rate;
- (f) Interest and dividend income is taxed at the source of payment in Georgia at a flat 5% rate. No further taxation applies to net interest and dividend income received by an individual;
- (g) Rent income is taxed at the source of payment in Georgia at a flat 20% rate. No further taxation applies to net rent income received by an individual.

## Case 2: Property Tax for Individuals

### Background information

An individual owns a 150 sq/meter flat with market price of GEL 200,000 in 9 floor block (the size of each floor is 500 sq/meter; the total area belonging to the building is 800 sq/meter) in Tbilisi, Georgia. The annual income of the individual's family totalled GEL 55,000 during the previous year.

### Calculation of property tax

Property tax for the individual for the reporting tax year will be the following:

Since the individual's gross family income exceeded GEL 40 000, he/she has to pay property tax.

The individual's property tax consists of tax on the car and the flat.

As individual's income is below GEL 100,000, he/she is subject to tax rate between 0.05%-0.2%. Property tax on flat is GEL 400 (a)

The land plot located under the block will not be subject to taxation (b)

Thus, total property tax is GEL 400.

Notes:

- (a) Property tax on flat = market price of flat \* defined percentage = 200,000 \* 0.2% = GEL 400 (annual property tax rate for individual is fixed by the Local Government at 0.2%);
- (b) (size of the flat/total size of building)\*size of the land = (150/ (9\*500)) \* 800 = 26,7, which is less than 50 sq/meter, the exemption threshold.

### Case 3: Corporate Income Tax

#### Background information

The income and expenses for a Georgian company for a tax year (the same as a calendar year) of 2011 are the following: trading income - GEL 110,000; gross interest income from resident bank - GEL 20,000; dividend income from its Georgian subsidiary - GEL 35,000; salary expenses - GEL 25,000; raw materials expenses - GEL 35,000; fuel and utilities expenses - GEL 10,500; representative expenses - GEL 3,000; accounting depreciation expenses - GEL 8,670; tax depreciation expenses - GEL 5,700; tax fine and penalty expenses - GEL 1,760; property tax expenses - GEL 700. The machinery and equipment of tax depreciation group 1 were repaired (capital repair) at GEL 560; balance value of tax depreciation group 1 by the end of the previous tax year comprised GEL 8,000. Tax loss of 2010 was GEL 3,000.

#### Calculation of annual income taxable in Georgia

|                               | GEL     | Notes |
|-------------------------------|---------|-------|
| <b>Gross income</b>           |         | (a)   |
| Trading income                | 110,000 | (b)   |
| Interest income               | 0       | (a)   |
| Dividend income               | 0       | (b)   |
| Total gross income            | 110,000 |       |
| <b>Deductible expenses</b>    |         |       |
| Salary expenses               | 25,000  |       |
| Raw materials expenses        | 35,000  |       |
| Fuel and utilities expenses   | 10,500  |       |
| Representative expenses       | 1,100   | (c)   |
| Depreciation expenses         | 5,700   | (d)   |
| Tax fine and penalty expenses | 0       | (e)   |
| Property tax expenses         | 700     |       |
| Capital repair expenses       | 400     | (f)   |
| Total deductible expenses     | 78,400  |       |
| Net Income                    | 31,600  |       |
| Losses carried forward        | 3,000   |       |
| Taxable income                | 28,600  |       |
| Corporate income tax payable  | 4,290   |       |

Notes:

- (a) Interest received from licensed financial institutions is not subject to withholding taxation and is not further included in the gross income of a Georgian company, provided it is not itself a licensed financial institution;
- (b) Dividend paid to Georgian company is not subject to withholding taxation and is not further included in the gross income of a Georgian company;
- (c) Deductible representative expenses are limited to 1% of total gross income, i.e. GEL 1,100 ( $110,000 \times 1\% = 1,100$ );
- (d) Only tax depreciation can be deducted for corporate income tax purposes;
- (e) Tax fine and penalty expenses are not deductible for corporate income tax purposes;
- (f) Capital repair expenses are deductible up to 5% of respective tax depreciation group value of fixed assets, i.e. GEL 400 ( $8,000 \times 5\% = 400$ ); the rest of the capital repair expenses increases the value of this group;

## Case 4: Value Added Tax (VAT)

### Background information

During 2011 a VAT payer carried out supply of goods and services (output operations) in the amount of GEL 250,000 subject to 18% VAT taxation (output VAT), GEL 50,000 - exempt with the right to reclaim input VAT and GEL 100,000 - exempt without the right to reclaim input VAT. During the same period the VAT payer purchased goods and services (input operations) with total VAT amount of GEL 30,000 (input VAT). This input VAT satisfied all the requirements for creditable VAT, except for as described in the section "Calculation of Creditable VAT" below. The allocation of input VAT among output operations were as follows: input VAT corresponding to output operations taxed at 18% VAT - GEL 12,000; input VAT corresponding to exempt output operations with the right to reclaim VAT - GEL 5,000; input VAT corresponding to VAT exempt output operations without the right to reclaim VAT- GEL 9,000, input VAT that does not directly correspond to any of output operations (indirect input VAT) - GEL 4,000

### Calculation of creditable VAT

Input VAT corresponding to VAT taxable output operations and VAT exempt output operations with the right to reclaim input VAT can be credited. Thus input VAT in the amount of GEL 17,000 ( $12,000+5,000=17,000$ ) is creditable. By the same logic input VAT in the amount of GEL 9,000, corresponding to VAT exempt output operations without the right to reclaim can not be credited. As for the indirect input VAT (that does not directly correspond to any of output operations), it must be allocated between creditable and non-creditable input VAT in proportion of the values of VAT taxable and other output operations. This allocation is demonstrated below:

|                                                        |                 |
|--------------------------------------------------------|-----------------|
| Total output supply                                    | GEL 400,000 (a) |
| VAT taxable and qualifying                             |                 |
| VAT exempt output supply                               | GEL 300,000 (b) |
| Total gross income                                     | 110,000         |
| Percentage of VAT taxable and qualifying exempt supply | 75% (c)         |
| Total indirect input VAT                               | GEL 4,000       |
| Creditable indirect input VAT                          | GEL 3,000 (d)   |
| Non-creditable indirect input VAT                      | GEL 1,000 (e)   |

To summarize, total creditable VAT for 2011 equals GEL 20,000 (f) and non-creditable VAT is GEL 10,000 (g).

### Calculation of VAT payable

For 2011 output VAT equals GEL 45,000 (h) and creditable input VAT is GEL 20,000. Thus, VAT payable for 2011 will be GEL 25,000 (i).

Notes:

(a)  $250,000+50,000+100,000$ ;

(b)  $250,000+50,000$ ;

(c)  $300,000/400,000$ ;

(d)  $4,000*75\%$ ;

(e)  $4,000-3,000$ ;

(f)  $17,000+3,000$ ;

(g)  $9,000+1,000$ ;

(h)  $250,000*18\%$ ;

(i)  $45,000-20,000$ .

## Case 5: Excise Tax

### **Background information**

A Georgian company imports and sells excise product - filter cigarettes containing tobacco (commodity nomenclature code 240220) - purchased from a non-resident supplier. On 30 January 2011 the company imported 2,000,000 units and sold the total amount to its customers.

### **Calculation of excise tax**

Excise tax on imported filter cigarettes containing tobacco is GEL 0.6 for 20 units. Thus, excise tax on import is GEL 60,000 (a).

Note:

(a) Excise tax is calculated as  $(2,000,000/20) * 0.6$ . No further excise tax is payable at the moment of sale of imported excisable goods. Paid excise tax is included in the cost of goods.

## Case 6: Import Tax

### **Background information**

A Georgian resident company imported the equipment into the economic territory of Georgia on 31 January 2011. According to the invoice presented by the company, the cost of the product is EUR 20,000, transportation cost from the seller abroad to Georgia is EUR 1,000 and insurance cost is EUR 500.

### **Calculation of taxes upon import**

The company will be subject to the following taxes at the economic border of Georgia:

Tariff value is GEL 53,475 (a)

Import tax is 0 (b)

VAT on import is GEL 9,625(c)

Notes:

(a)  $(20,000 + 1,000 + 500) * 2.4872$ ; exchange rate used to convert the EUR amount into GEL is a theoretical exchange rate that will be fixed by the National Bank of Georgia on 31 January 2011;

(b) Import of equipment falls into 0% rate category, thus import tax is calculated as  $53,475 * 0\%$ ;

(c) VAT on import is calculated on the sum of tariff value and import tax (if applicable), thus VAT on import is calculated as follows:  $(53,475 + 0) * 18\%$ . Further, VAT paid on import is a creditable VAT and can be recovered.

## Case 7: Property Tax for Companies

### **Background information**

A Georgian company has the following fixed assets(purchased after 2004) on its balance sheet for the following calendar (i.e. tax) years:

|                  | 31/12/2010 | 31/12/2011 |
|------------------|------------|------------|
| Computers        | 175,400    | 158,350    |
| Office furniture | 35,560     | 38,900     |

### **Calculation of property tax**

Property tax on fixed assets for 2011 is GEL 2,041 (a)

Current payment of property tax for 2012 is GEL 2,041, which is payable before 15 June 2012.

Note:

(a) property tax on fixed assets = average annual book value of fixed assets \* 1% =  $[(175,400+35,560) + (158,350+38,900)]/2 * 1\% = \text{GEL } 2,041$

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## For Notes

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