

### **Article 10. Interpretation and application of the Agreement**

Any dispute regarding the application or interpretation of this Agreement shall be resolved between the Parties by means of consultation and/or negotiations.

The competent authorities deal directly with each other in matters concerning the implementation of this Agreement.

### **Article 11. Language**

Any information exchanged on paper or electronically shall be in English language.

### **Article 12. Competent Authorities**

The competent authorities for the implementation of this Agreement are:

In Georgia:  
Georgia Revenue Service  
16 Gorgasali street,  
0114 Tbilisi, Georgia

In Republic of Lithuania:  
State Tax Inspectorate under the Ministry of  
Finance  
Vasario 16-osios Street 14  
LT-01514 Vilnius

### **Article 13. Amendments**

Amendments and additions may be introduced to this Agreement upon mutual consent of the Parties, which shall be formed as a separate document and enter into force subject to the same procedure as this Agreement. The document formed thereby, shall constitute an integral part of this Agreement.

### **Article 14. Entry into force and termination**

This Agreement is concluded for an undetermined period and shall enter into force on the day of its signature. Each Party at any time may terminate this Agreement by giving a written notice of termination to the other Party through diplomatic channels. In such case, this Agreement shall expire 6 month after the date of the receipt of the termination notice by the other Party.

Done at Tbilisi, on October 21, 2014, in two original copies, each in the Georgian, Lithuanian and English languages, all texts being equally authentic. In case of divergence in the interpretation, the English text shall prevail.

**For the Ministry of Finance of Georgia**

**For the State Tax Inspectorate under the  
Ministry of Finance of the Republic of  
Lithuania**



**Irakli Gvaramadze**

**Dainoras Bradauskas**



## **AGREEMENT**

### **BETWEEN THE MINISTRY OF FINANCE OF GEORGIA AND THE STATE TAX INSPECTORATE UNDER THE MINISTRY OF FINANCE OF THE REPUBLIC OF LITHUANIA ON MUTUAL ADMINISTRATIVE ASSISTANCE IN THE FIELD OF EXCHANGE OF TAX INFORMATION**

The Ministry of Finance of Georgia and the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania (hereinafter referred to as "the Parties") agree to conclude an Agreement on mutual administrative assistance in the field of exchange of tax information, in accordance with Article 27 "Exchange of information" of the Convention of September 11, 2003 between Georgia and the Republic of Lithuania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, (hereafter referred to as "the Convention").

#### **Article 1. Subject of the Agreement**

The subject of this Agreement is mutual administrative assistance between the competent authorities (stated in the Article 12 of this Agreement) on exchange of information in tax matters according Article 27 "Exchange of information" of the Convention.

Based on this Agreement the mutual administrative assistance is carried out in accordance with their existing state legislation and the Convention.

#### **Article 2. Forms for mutual administrative assistance**

Under the scope of this Agreement the competent authorities shall exchange information in the following forms:

- providing information automatically (Article 3 of this Agreement);
- providing information spontaneously (Article 4 of this Agreement);
- providing information on request (Article 5 of this Agreement);
- allowing presence at tax examinations and carrying out simultaneous tax examinations (Articles 6 and 7 of this Agreement);
- exchange of information on the national tax systems, changes in the tax legislation; and
- other forms of co-operation within the scope of the Convention as agreed upon in writing between the Competent Authorities.

#### **Article 3. Exchange of information automatically**

After the end of each calendar year, but no later than the end of the second quarter of the following calendar year, the competent authority of each State on a reciprocal basis shall supply automatically to the competent authority of the other State, in accordance with the State tax legislation, without any special request, the information available concerning individuals and legal entities, who are residents in the other State, in respect of:

- a) salaries, wages, pensions and other remunerations as defined in Article 15, 18 and 19 of the Convention,
- b) dividends as defined in Article 10 of the Convention,
- c) interest as defined in Article 11 of the Convention,



- d) royalties as defined in Article 12 of the Convention,
- e) capital gains as defined in Article 13 of the Convention,
- f) income referred to in Article 14, 16, 17 and 22 of the Convention,
- g) ownership of and income from immovable property as defined in Article 6 of the Convention.

If the information provided is found to be incorrect or incomplete, the competent authority receiving information shall make this known to the other competent authority as soon as possible. The same shall apply to technical problems or difficulties in converting the data provided.

If the competent authority sending information finds that the information provided is incorrect or incomplete, the competent authority shall provide correct or complete data as soon as possible, and inform the other competent authority whether the new data is replacing or changing data earlier provided.

If the information cannot be supplied automatically, it will be exchanged spontaneously.

#### **Article 4. Exchange of information spontaneously**

The competent authority of each State shall supply, without any specific request, to the competent authority of the other State information that concerns taxpayers of the other State and which may be of interest for proper execution of the Convention and which is assumed to be of use to the other competent authority.

If the information submitted causes any changes in taxation in the recipient State, the competent authority of the other State should be informed accordingly.

#### **Article 5. Exchange of information on request**

The competent authorities shall render each other assistance in accordance with their national legislation.

A request for information shall contain:

- the name of the requesting competent authority;
- the name of the requested competent authority;
- the identity of the taxpayer in question including name, address, date of birth or company registration number and, if available, the tax identification number in both States, and
- a brief statement of the content of the request with a description of the examination period and types of taxes and any other information that is required for establishing that the requested information is foreseeably relevant for the requesting competent authority.

The regular sources of that specific kind of information available under the internal taxation procedure shall be exhausted before a request for information is sent to the other competent authority.

The requested competent authority may require additional information necessary for the fulfilment of the request for information.

The requested competent authority shall notify the requesting competent authority in case the request for information can not be executed.

The requests for information shall be transmitted in writing by post with the enclosure of the documents necessary for its processing and up on request of one of the competent authorities can be sent by generalized e-mail.

The requests for information shall be complied with by the requested competent authority as soon as possible and, whenever possible, within three months period from the receipt of the request.

#### **Article 6. Presence at tax examinations**

At the request of the competent authority of one State, the competent authority of the other State may allow, in accordance with the State tax legislation, authorized representatives of the requesting competent authority to be present at the appropriate part of a tax examination arranged by the requested competent authority.

All decisions with respect to the conduct of the tax examination shall be made by the requested competent authority. The competent authority in the requested State shall notify the other competent authority regarding the particulars of each examination.

The competent authorities shall consult each other for the purposes of determining cases and the procedures for the presence at tax examinations in each case.

The competent authorities agree that any exchange of information which follows from such presence at tax examinations either on request or spontaneously will be made through the competent authorities in accordance with the Article 27 of the Convention.

#### **Article 7. Simultaneous tax examinations**

A simultaneous tax examination means an arrangement between the competent authorities to examine simultaneously and independently, each in its own territory, the tax affairs of (a) selected taxpayer(s) in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

The procedures for case selection and examination procedures that the competent authorities agree upon are further described in Appendix A, which is integral part of this Agreement.

The competent authorities agree that any exchange of information which follows from such examinations either on request or spontaneously will be made through the competent authorities in accordance with the Article 27 of the Convention.

#### **Article 8. Expenses**

Each competent authority shall bear the expenses of its own officials.

The competent authorities shall bear all expenses for fulfilment of the provisions of this Agreement in their State territory.

#### **Article 9. Confidentiality of information**

The competent authorities agree that the disclosure and use of information exchanged is subject to the provisions of the Article 27 of the Convention and shall be used only for tax purposes as specified in the Article.



## SIMULTANEOUS TAX EXAMINATION

### 1. Objectives

It is agreed that the main purpose of a simultaneous examination is inter alia:

1. To determine a taxpayer's correct liability in cases where:
  - a) costs are shared or charged and profits are allocated between taxpayers in different tax jurisdictions or more generally transfer pricing issues are involved,
  - b) apparent tax avoidance techniques or patterns involving substance versus form transactions, controlled financing schemes, price manipulations, cost allocations or tax shelters are identified,
  - c) unreported income, illegal payments, etc. are identified,
  - d) transactions with tax havens and tax avoidance or evasion schemes involving tax havens are identified.
2. To facilitate an exchange of information on:
  - a) multinational business practices, complex transactions, examination issues and non-compliance trends that may be particular to an industry or group of industries,
  - b) cost sharing arrangements,
  - c) profit allocation methods in special fields such as global trading (including e-commerce) and new financial instruments.

### 2. Case selection and examination procedure

Taxpayers shall be independently identified for simultaneous examinations by the competent authorities of each State.

Each competent authority shall inform the other competent authority in writing of its choice of potential cases using the selection criteria described below. It shall explain, as far as possible, why it has chosen these cases and provide the information leading to its proposals, together with any other relevant information, as well as its statute of limitation applicable to the cases proposed for simultaneous examinations. The information must include the name of the taxpayer(s), registration number(s), legal address(es) and the period to be examined.

Each competent authority shall determine whether it wishes to participate in a particular simultaneous examination. Neither competent authority, however, shall be under an obligation to co-operate in an examination proposed by the other competent authority. As soon as possible and, at the latest within three (3) months the invited competent authority shall inform the other competent authority of their confirmation or refusal of the proposal.

If a competent authority accepts a counterpart's proposal to conduct a simultaneous examination, that competent authority shall confirm, in writing, the selection of the case, specifying the taxpayer(s), taxes and tax years involved. It shall appoint a designated representative who shall have functional responsibility for directing and co-ordinating the examination. After receiving such confirmation, the proposing competent authority shall also indicate, in writing, a designated representative. In those cases where there is an agreement to conduct a simultaneous examination, the competent authority of each State shall formally request the other competent authority to exchange specific information or provide each other with information spontaneously.

The designated representatives of the competent authorities shall decide areas and periods to be examined in the particular case selected, the timetable for the examination, and the approaches to be taken. They shall initiate exchange of specific information in accordance with formal written requests and spontaneously.

The information which may be requested under this arrangement must be obtainable under the Convention and the respective tax laws of the two States. Any exchange of information which follows from such examinations either on request or spontaneously will be made through the competent authorities.

### **3. Criteria for case selection**

Any case selected for a simultaneous examination shall involve (a) taxpayer(s) with activities in both States, either directly or through associated enterprises or through permanent establishments or representation.

The factors considered in determining whether a case is to be selected shall primarily be, but shall not be limited to:

- a) indications of tax avoidance and/or evasion;
- b) indications of substantial non-compliance of tax law in one State;
- c) indications of manipulation of transfer prices to the potential detriment of one State;
- d) indications of other forms of international tax planning which, if countered successfully, may generate additional tax revenue in one State;
- e) indications that the economic performance of a taxpayer or related taxpayers, over a period of time, is significantly worse than it might be expected, for instance:
  - the economic performance does not reflect appropriate profits when measured against sales, total assets, etc.;
  - cases where the taxpayer consistently shows losses, especially long-term losses, and
  - cases where the taxpayer, regardless of profitability, paid little or no tax over the relevant period;
- f) the existence of transactions involving a "tax haven"; or
- g) situations where the competent authorities consider that it is in the interest of the tax administrations concerned in order to promote international tax compliance.

### **4. Personnel**

Examinations shall be conducted separately within the framework of existing legislation and practice solely by tax administration officials of each State in a manner which maximizes the advantages of exchange of information.

The designated representatives shall contact each other through the competent authorities.

### **5. Planning the examination**

Before the start of the examination the designated representative in charge of the case shall consider with their counterpart from the other State the examination plans of each State, possible issues to be developed, and target dates.

### **6. Conducting an examination**

A simultaneous tax examination requires the co-operation of tax administration officials in each State who shall simultaneously but independently examine the taxpayer(s) within their jurisdiction. Any exchange of information - spontaneously or on request - must be made in accordance with the Article 27 of the Convention.



#### **7. Discontinuing an examination**

If either competent authority concludes that a simultaneous examination is no longer beneficial, it may withdraw by notifying the other competent authority of its withdrawal.

#### **8. Concluding an examination**

An examination shall be concluded after co-ordination and consultations between the competent authorities of each State, in accordance with the existing procedures of each State. Double taxation issues raised by the examination are confined to Article 26 "Mutual agreement procedure" of the Convention.