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Law of Georgia on Rehabilitation and Collective Satisfaction of Creditors

On 25 September 2020, the Law of Georgia on Rehabilitation and Collective Satisfaction of Creditors was published.

Debtor insolvency

- Under the law, insolvency is when the debtor is unable to cover overdue obligations. Unless proved contrary, the debtor is assumed to be insolvent when:
 - Its activities are terminated;
 - It has been in the debtors' registry for the last 12 months prior to filing the application;
 - The measure of securing the payment of the tax debt is valid for at least 30 days before the filing of the application against the debtor;
 - In other cases provided by law.

Application on Insolvency Commencement

- An application for the insolvency commencement can be filed by the:
 - Debtor;
 - Lender;
 - Supervisor of the regulated agreement;
 - Rehabilitation manager / bankruptcy manager at the request of conversion (i.e. when requesting change to rehabilitation mode into bankruptcy mode or vice versa).

Regulated agreement

- Law introduces the concept of a regulated agreement. A regulated agreement is an agreement reached between the debtor and creditors when each creditor receives at least as much as it would have received in case of debtor's bankruptcy, except some cases.

Source: Legislative Herald of Georgia, 27 September 2020



Amendments to the Law of Georgia on Competition

On 25 September 2020, amendments to the law of Georgia on Competition was published, according to which, following amendments are introduced from 4 November 2020:

Definition of the economic agent

- Definition of economic agent is broadened. According to the law, economic agent is an individual, legal entity or association carrying out economic activity, regardless of residence, legal form of a legal entity.

Concentration

- Issues related to the concentration:
 - According to the amendment, if the concentration has taken place and the economic agent / economic agents have not fulfilled their obligations to notify within the relevant period, the Competition Agency of Georgia (hereinafter Agency) will impose fines on the economic agent/agents. Agency will file a motion to revoke the concentration in order to restore the status quo.
 - According to the law, in order to restore status quo, economic agent can be subject to various obligations, including obligations to alienate the enterprise, shares, assets, securities or parts thereof, to carry out reorganization or to terminate a specific contract.
 - According to the amendment, unless proved contrary by the economic agent, it is assumed that when the concentration creates or strengthens the dominant position, such concentration substantially restricts effective competition on the market of goods or services of Georgia, or part of it.
 - The cost of concentration notice review is GEL 5,000.

Failure to submit the information

- Under the amendment, the prohibition on competition agreement, decision and concerted action applies to both economic agents and associations of economic agents.
- In case economic agent fails to submit information requested by the Agency, the Agency is entitled to apply by the motion to the court for requesting the information not only during the investigation but also during the examination of the case. In case of failure to submit or submitting partial information the economic agent will be fined with GEL 3,000. If the breach is repeated, the fine is GEL 5,000. This does not free the party to fulfill its obligation.
- Under the amendment, the court is entitled to fully review the Agency's decision, including the amount of the fine.

Source: Legislative Herald of Georgia, 27 September 2020



Order №2 of the Head of the Financial Monitoring Service on the Client Identification and Verification Rules by the Accountable Person

From 20 October 2020 Order №2 of the Head of the Financial Monitoring Service of Georgia on the client identification and verification rules by the accountable person will become effective. According to the order:

- Following identification data shall be obtained by the obliged entity for the identification of an individual client:
 - Name and surname;
 - Date of birth;
 - ID number (if any);
 - ID and / or citizenship document number;
 - Gender;
 - Citizenship;
 - Place of birth (city, country);
 - Factual residence and legal address.
 - Verification of an individual client shall be based on the following documents:
 - For a citizen of Georgia - passport of a citizen of Georgia, ID card or driver's license, certificate of a compatriot living abroad;
 - For an individual residing in the Autonomous Republic of Abkhazia and the Tskhinvali region - a neutral ID card or a neutral travel document;
 - For a foreign citizen - residence permit, temporary identification card, passport, other document allowed for crossing the customs border of Georgia on the basis of an international agreement or a certificate of a compatriot living abroad;
 - For a stateless individual - a residence permit, a temporary identification card or a travel passport;
 - The document obtained for the verification of an individual, except for the birth certificate and the extract from the register of entrepreneurs and non-entrepreneurial legal entities of the National Agency of Public Registry, shall contain a photography and shall be valid.
 - Obligated entity shall obtain following identification data for the identification of a legal entity client:
 - Name;
 - Date of registration;
 - Legal address;
 - Identification number (if any);
 - Registration number (if any);
 - Legal form;
 - Factual address;
 - Identification data established by the order of its managerial and representative authorities.
 - The obliged entity shall keep information and/or documents obtained for the purposes of identification and verification of the client within 5 years from the termination of the business relationship or the conclusion of a one-time transaction.
- Identification of an individual client**
- Verification of an individual client**
- Legal entity client identification**



Duty of document Keeping

- When keeping information/document obtained for the verification purposes, the obliged entity shall indicate the country, issuing the document, the date and validity period of the document, and the scope of the person's authority acting on behalf of the client.

Source: Legislative Herald of Georgia, 27 September 2020

Draft Law on Amendments to the Organic Law of Georgia “Labor Code of Georgia”

On 29 September 2020, legislative package of amendments were accepted for the third hearing by the Parliament of Georgia. Package includes amendments to the Labor Code of Georgia, adoption of a new law "On Labor Inspection" and other changes in relevant documents.

Internship

- Among others, the draft amendments provide changes regarding prohibition of discrimination, main conditions of labor agreement, internship and transfer of vehicles.
- Under the draft amendments, definition of intern will be incorporated to the labor code of Georgia.
- Under the draft law, intern is an individual which under the payment or without remuneration performs a job to improve his or her qualification, to gain professional knowledge, skills or experience.
- Duration of unpaid internship should not exceed 6 months and for the paid internship - 1 year.
- Under the draft, overtime work is the work of an employee agreed between the parties for a period of time longer than the normal working time. The duration of normal working time shall not exceed 40 hours per week.

Overtime

- According to the draft law, the employer shall notify to an employee in writing about overtime work one week prior, unless it is impossible due to the objective needs of the employer.
- Draft regulates work from 22 hours to 6 hours (night work).
- For performing heavy, hazardous and dangerous work, night shift working time shall not exceed 8 hours within 24 hour.
- According to the draft law, state supervision over the fulfillment of labor legislation will be carried out by Legal Entity of Public Law - the Labor Inspection.

Labor Inspection

- Under the draft law of labor inspection, Labor inspection agency may conduct an inspection on its own initiative or based on the application of any person. If the breach is established, a breaching entity may be subject to administrative punishment.

Source: Parliament of Georgia, 29 September 2020



Draft Law of Georgia on Entrepreneurs

On 8 September 2020, the draft law "On Entrepreneurs" and related draft laws were submitted to the Parliament of Georgia. The draft law regulates following issues:

Director

- Issues related to the directors of legal entities:
 - Mandate agreement is concluded between the Limited Liability Company / Joint Stock Company / cooperative and the director. The provisions of labor law do not apply to the agreement.
 - The director is appointed to the position for a period not exceeding 3 years, with the right of reappointment, unless otherwise provided by the charter.
 - If after the expiration of the term no amendment is made in the registry, the term of the registered director is deemed to be extended indefinitely.

Company name

- Company name of the entity:
 - Company name of the entity, other than an individual entrepreneur, must be different from the already registered entity.
 - The company name shall be changed if needed for distinguishing from the name of another entity.
- Under the law, if the registered data of the entity does not comply with the mandatory requirements of registration by the Law of Georgia on Entrepreneurs, the registry on its own initiative identifies the defect and considers entity defective.

Defective entity

- According to the draft, the law will become effective on 1 January 2021. Entity registered before the enactment of the law shall bring the registration data in compliance with the requirements of the law within 2 years from becoming the law effective.

Source: Parliament of Georgia, 25 September 2020





Let's talk

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

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