



Counsel you can trust

AMENDMENTS TO THE LAW OF GEORGIA ON CONFLICT OF INTERESTS AND CORRUPTION IN PUBLIC SERVICE

To the attention of all entrepreneurs at public service, we remind you that from 1 January 2017 onwards, new regulations come into effect. The amendments to the Law of Georgia on Conflict of Interests and Corruption in Public Service were introduced as early as 27 October 2015. However, it is from the beginning of 2017 that public servants will no longer be allowed to carry out entrepreneurial activities and may only hold stocks or shares in enterprises under the property assignment agreement – a Georgian analogy of trust. If pursuant to the former regulation, officials were precluded from holding any managerial position in any enterprise or own shares in the entities they controlled or supervised, now the limitations go even further – officials may no longer engage in any decision making in the company, not even on a shareholder level.

AMENDMENTS TO THE TAX CODE ARE UNDERWAY

On 23 June 2016 a bill of amendments to the Tax Code of Georgia was introduced to the Parliament. If at all adopted by the Parliament, the amendment will be effective from 1 January 2017 and allow the entities to pay out the utility charges, salaries, lease payments and other expenditures essential for company's uninterrupted operation from an arrested bank account. Amendments further concern the simplified rule of writing off the inventory destroyed or lost due to force majeure event as well as VAT exemption of residents and nonresidents providing carriage/container car services inside/outside the Georgian borders.

IMPORTANT COURT INTERPRETATION OF DOCUMENT PRODUCTION DURING TAX INSPECTION

Recently published decision of the Tbilisi Court of Appeals dated 11 May 2016 sheds some lights on the right of the Revenue Service to obtain documents from the taxpayer during the tax inspection. The court highlighted that accounting documents must be made available to the Revenue Service even if the taxpayer has a non-disclosure arrangement over such documents or the information includes confidential data. Revenue Service carries the duty to keep such information confidential.

IMPORTANT APPELLATE COURT INTERPRETATION REGARDING THE ELECTRONIC AUCTION

On 3 August 2016, Tbilisi Court of Appeals published a landmark decision regarding the offer made by the private individual in electronic auction. The court established that putting up the property for sale in the

electronic auction constitutes merely an invitation to treat and, as such, does not bind the seller to sell the property to the winner of the auction. In such setting, the winner's proposal to buy counts as an offer, pending seller's acceptance.

ICC STANDARD ARBITRATION CLAUSE MAY NO LONGER REPRESENT A BINDING AGREEMENT TO ARBITRATE

As recently brought to the attention of practicing lawyers and scholars, the decision of Batumi City Court of 25 November 2015 questions the binding nature of ICC standard arbitration clause under the laws of Georgia. The court examined the validity of the standard ICC arbitration clause under the Arbitration Law of Georgia and the Civil Procedures Code of Georgia and concluded that an agreement to arbitrate under the rules of a particular arbitration institution, without naming the institution itself, does not constitute a valid agreement to arbitrate. Arguable enough, the decision undermines the validity of not only the ICC model arbitration clause but also those of the other famous arbitration institutions such as LCIA, SCC or VIAC where no reference is made to the actual institute administering the case but rather to the arbitration rules thereof.

NEW APPROACH OF THE SUPREME COURT ON THE STATUTE OF LIMITATION IN LABOUR DISPUTES

On 29 June 2016, the Supreme Court of Georgia delivered an important judgment regarding the term for challenging a dismissal by an employee. The Court clarified that if the employer fails to provide reasoning for dismissal to the employee in writing within 7 days at the employee's request or otherwise, the statute of limitation of any claim of the employee regarding the lawfulness of the dismissal shall be extended from 30 days to 3 years. We highly recommend to all our clients to issue substantiated reasoning for dismissal to the employees promptly upon dismissal and thus limit the risk of being sued to only 30 days.

SETTING STANDARD FOR RESPONSIBLE JOURNALISM – NEW DEVELOPMENTS ON THE TBC DEFACTION CASE

BLC Law Office together with Kordadze Law Firm announces yet another successful outcome on a defamation case. On 9 September 2016, Tbilisi Court of Appeals rendered its decision on the case of TBC Bank and Mr. Mamuka Khazaradze against the local newspaper Asaval-Dasavali and its journalists. The Appeals Court upheld the decision of the Tbilisi City Court and ruled in favor of TBC Bank and Mr. Mamuka Khazaradze ordering the newspaper to reject false and defamatory statements disseminated by the latter and pay compensation for moral and reputational damage totaling to GEL 6,000. The decision continues the trend set by the Supreme Court of Georgia and the European Court of Human Rights on defamation cases and bears vital importance for development of responsible journalism in Georgia.

For more information and advise please contact us:

4, Gudiashvili Square
Tbilisi, 0114, Georgia
Tel.:(995 322) 92 24 91, 92 00 86
blc@blc.ge
blc.ge