

## *Legal amendments effected in November 2009:*

- *Amendments were made to the Civil Code of Georgia, Law of Georgia on Entrepreneurs, Law of Georgia on Public Registry and respective legal acts and regulations whereby the state and tax registration of commercial as well as non-commercial legal entities shall be carried out by the National Agency of Public Registry;*
- *Business Partnership as a separate organizational legal form was abolished;*
- *Number of amendments were introduced to the Tax Code of Georgia;*

## **Company Registration**

On November 3, 2009 extensive amendments were introduced to the Civil Code of Georgia, Law of Georgia on Entrepreneurs, Law of Georgia on Public Registry and respective legal acts and regulations. According to the amendments from January 1, 2009 registration of entrepreneurial as well as non-entrepreneurial legal persons shall be carried out and the registry shall be maintained by the National Agency of Public Registry of the Ministry of Justice of Georgia instead of Tax Inspection of the Ministry of Finance of Georgia. The aforementioned amendments are expected to serve to the best interest of data base development, facilitation of registration proceedings, publicity of information maintained by the Registry, territorial convenience and implementation of “one window principle”.

The aforementioned amendments envisage two-stage proceedings: at the initial stage information on shareholdings and partners of Limited Liability Companies maintained by the independent registrars and company directors shall be submitted to the Agency, which shall be followed by the second stage, that is to say, from January 1, 2010 the Agency shall be the body authorized to carry out the registration proceedings.

Among others, timeframes and fees applicable to registration were introduced. Registration of commercial legal entity (except for the Individual enterprise) and non-commercial legal entity as well as registration of modifications shall be carried out in one business day with the registration fee of 100GEL and 200GEL for immediate registration, whereas previously registration fee varied from 160 to 360GEL.

Most importantly, the legislator reintroduced the rule of the registration of shareholders. Under the amendments the shareholders of LLC shall be registered by the Agency and be published on Agency web-page thus guaranteeing shareholding transparency.

Another important alteration concerns Charter (Articles of Association). Precisely, submission of Charter

(Articles of Association) for the purposes of registration shall now be compulsory, whereas previously no charter (Articles of Association) was required at the time of registration of the company. Notably the company Charter (Articles of Association) as well as the other documents submitted at the time of registration shall be published on the Agency web-page and shall be available to any interested party.

Last but not least, the presumption of veracity and completeness shall operate with respect to the Public Registry, i.e. an entry in Public Register shall be deemed to be accurate until its inaccuracy is proven.

The amendments shall enter into effect from January 1, 2010.

## **Civil Code of Georgia**

On November 3, 2009 respective amendments were introduced to the Civil Code of Georgia according to which the registration of non-commercial legal entities and the branch offices thereof shall be carried out by the National Agency of Public Registry of the Ministry of Justice of Georgia, instead of the Tax Inspection. Meanwhile, time frame for registration of a non-commercial legal entity was reduced from 3 to 1 business day. If for the registration purposes, Charter (Articles of Association) was required only for national sport federations, professional unions and organizations managing property rights on collective basis, by virtue of the amendments submission of the duly notarized Charter (Articles of Association) becomes compulsory for any other non-commercial legal entity at the time of registration thereof.

In addition, the registration of a branch office of Georgia incorporated non-commercial legal entity is no longer required, By virtue of the amendments the registration requirements applicable to the branch offices of foreign non-commercial entities have been simplified.

The amendments shall become effective from January 1, 2010.

## **Law of Georgia on Entrepreneurs**

The Law on Entrepreneurs was amended on November 3, 2009 to eliminate the Business Partnership, as an independent organizational legal form.

Under the same package of amendments the legislator abolished the requirement to register the branch office, thus registration of the branch office will not be carried out by the Agency regardless whether company desires such registration or not. This rule does not apply to the branch offices maintained by the foreign business entities.

The amendments shall become effective from January 1, 2010.

### Liquidation & Reorganization

Amendments introduced to the Law of Georgia on Entrepreneurs are related to the Liquidation & Reorganization proceedings.

Thus, the liquidation proceedings shall be deemed commenced from the day of registration of partners' decision on liquidation in the Agency and shall be finished within 4 months from the day of its commencement.

Another novelty introduced by the amendments is that now the responsible representatives of a company must submit to the Agency information on time frames in which the company is question estimates to satisfy all of its known creditors. Company under liquidation is no more obliged to publish information on commencement of liquidation proceedings in an official newspaper, as long as information shall be published on the Agency web-page, however company may still publish the specified list of its creditors therein.

Apart from the above rules, for the registration purposes now it is necessary to submit to the Agency the Act of Comparison as provided by the respective Decree of the Minister of Finance of Georgia. If however the aforementioned Act of Comparison outlines tax indebtedness of the company, the Agency shall not register the reorganization, until all taxes are paid.

The amendments shall become effective from January 1, 2010.

### Tax & Customs

On November 6, 2009 the number of amendments was introduced to the Tax Code of Georgia. By virtue of the amendments the international enterprise on the territory of Georgia including in the free industrial zone is prohibited to supply goods purchased from the taxpayer registered according to the legislation of Georgia without having the status of international enterprise.

On October 28, 2009 the Ministry of Finance of Georgia issued Order #689 and enacted new instruction which is mainly concerned with the terms and conditions for the application of zero rates of VAT on supply of goods/services to persons with the diplomatic status. According to the Instruction, if the value of goods/services supplied to a diplomatic representative for personal consumption exceed 100GEL as a single supply, the supplier is required to carry out the sale only based on the official reporting VAT invoice, where the supplier should indicate zero rate of VAT. If however foreign diplomatic and equivalent representatives pay VAT on purchased goods/services based on VAT invoices, according to the instructions the diplomatic organizations are entitled to submit the Application on VAT Refund to the tax authorities. The instructions came into effect in November 2009.

In November 2009 the Minister of Finance of Georgia issued Order #747 enacting new instruction on double tax treaties. The new instruction supersedes the Instructions # 1059 of the Ministry of Finance on Filling Tax Forms for the Application of Tax Concessions based on the Double Tax Treaties. The documents to be filed for tax relief under double tax treaties no longer need to be Apostilled or legalized by the embassies of Georgia.