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Governing for
Growth
in Georgia

TAX AUDIT SURVEY METHODOLOGY

FINAL REPORT

USAID GOVERNING FOR GROWTH (G4G) IN GEORGIA

27 OCTOBER 2016

This publication was produced for review by the United States Agency for International Development. It was prepared by Deloitte Consulting LLP. The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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DELOITTE CONSULTING LLP

USAID | GEORGIA

USAID CONTRACTING OFFICER'S

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DATA

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Practice Area: Tax Code Review

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ACRONYMS

G4G	Governing for Growth in Georgia
USAID	United States Agency for International Development
DRC	Dispute Resolution Council
RS	Revenue Service
VAT	Value Added Tax
AmCham	American Chamber of Commerce

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METHODOLOGY

The methodology includes the following elements:

Analysis, questioning and (if possible) substantiation of government data. American Chamber of Commerce (AmCham) has been provided data from the Revenue Service (RS) that aggregates the total number of audits, disputes and total value of final settlements. Analysis of this data highlighted changes in the number of audits and contrary Dispute Resolution Council (DRC) decisions. However, the data needed to be updated. AmCham has therefore asked for, and been provided with, updated information from the RS.

Analysis of the cases published on the DRC website - <http://taxdisputes.gov.ge/>. There are more than 1900 cases published on the DRC website. This covers the time period from November 2012 to the present. Each case is coded according to date, type of dispute (Value Added Tax (VAT), income tax, profit tax etc.), subject of dispute (delay of tax declaration, cancellation of VAT refund, etc.) and location of the business. Each link is supposed to connect to a PDF document that is a redacted version of the final decision by the DRC.

An aggregate assessment of this database encompassed the following activities:

- Download PDF documents of all cases (several hundred were missing);
- Aggregation of dispute cases by type, subject and period;
- Writing of a computer code to review all cases and identify the largest of them;
- Review of 25 cases selected, at random, from the 2016 dataset;
- Documentation of problems with the site.

Interviews with businesses. AmCham contacted all of AmCham's members and informed them about the project, then called each member individually. Each business was asked if it had been audited in the last 5 years and those with affirmative response were asked for an interview. Almost all of the audited members agreed to cooperate and AmCham completed around 60 interviews.

Discussions with auditors and focus groups with members to clarify results. Once the interviews are collected, coded and aggregated, AmCham will present the results in focus group discussions with members. This will be done to try and identify reasonable explanations for the results collected to date and in order to identify priority areas for strategic advocacy. It is anticipated that there will be six focus groups. The results of the business interviews will be presented to the focus groups and will provide a basis for discussion. The focus groups will consist of businesses and experts on the tax system.

Discussion with government. AmCham has met with the RS four times in the course of this project and will continue to meet with them regularly to discuss the results of the interviews and other analyses. This discussion is intended to ensure that there is some sense of collective ownership over the results and that the RS has trust in the process.

Dissemination and advocacy. A report will be disseminated internally, as well as to technical parties and diplomatic colleagues. It will also involve journalistic articles written for Investor.ge and the local press. Technical findings and advocacy for the results will be channeled through the Investor Council.

APPENDIX A: QUESTIONNAIRE

Date _____

Questionnaire # _____

Interviewer	
Company	
Respondent	
Contact information	

Hello, my name is _____ and I represent the American Chamber of Commerce (AmCham) who project is taking place under the “Governing for Growth” (G4G) program financed by USAID.

As part of this research, we are talking to as many companies as we can about their experience of Government tax audits and tax disputes. We appreciate you agreeing to talk to us about your experience. Your information will be invaluable in helping us discuss this issue with the Revenue Service, to try to improve the situation for all. Any information provided by you in this interview will be kept confidential. Your responses will be combined with those of other respondents and we will only analyze the collated data. Any company specific information provided in this interview will be confidential and will not be shared with anyone outside of our research team. It will therefore not be shared with the rest of AmCham or USAID and certainly not with the Revenue Service without your explicit permission.

Part A: Company Profile

1. Which industry does your company operate in? *[select all that apply]*

1	Agriculture
2	Construction
3	Consulting
4	Education
5	Energy
6	Financial Intermediation

7	Healthcare
8	Hospitality
9	Manufacturing
10	Mining
11	Real Estate
12	Trade
13	Transport and Communications
14	Other (please, specify):

2. Which range does the annual revenue of your company fall in?

1	Up to GEL 100,000
2	GEL 100,000 – 500,000
3	GEL 500,000 – 1,000,000
4	GEL 1,000,000 – 5,000,000
5	More than GEL 5,000,000

3. How many people does your company employ?

1	Up to 20
2	21 – 50
3	51 – 100
4	More than 100

4. Has your company been subject to field or desk audit starting from 1 January 2011 until today and if yes, how many times?

Number of audits	Type	Year	Did you appeal the audit decision at the Ministry of Finance system?	Did you appeal it at the court?
1	Field / Desk		Yes / No	Yes / No
2	Field / Desk		Yes / No	Yes / No
3	Field / Desk		Yes / No	Yes / No
4	Field / Desk		Yes / No	Yes / No
5	Field / Desk		Yes / No	Yes / No
6	Field / Desk		Yes / No	Yes / No
0	<i>END THE INTERVIEW</i>			

[To the interviewer: If the respondent's company has been subject to field or desk audit, read out the following]:

No I will ask you additional questions about each of the audit cases you just listed. It is important that we gain a complete picture of all of your audits of the last 6 years, we are interested in both those cases that you were happy with AND those that you were not happy with.

Part B: Field Tax Audit

Date _____

Questionnaire # _____

Interviewer	
Company	
Respondent	
Contact information	

1. Year of the field tax audit:

2. In your opinion, what was the reason of the field tax audit?

1	Substantial increase/decrease in the volume of economic activity of the company
2	Request submitted to the Revenue Service to return overpaid tax
3	Expiry of statute of limitation
4	Random selection through risk based approach
5	Other (please, specify):

3. Did you receive 10 working days advance notice about the field tax audit as is required by the Georgian Tax Code?

1	Yes
2	No, it was an emergency field audit (please, specify the reason):
3	No, other reason (please, specify):

4. Was the field tax audit suspended at any point?

1	Yes (please, specify the <u>duration</u> and the <u>reason of suspension</u>):
2	No

5. What was the type of the field tax audit?

1	Comprehensive audit
2	Subject audit (please, specify):

6. How many tax years did the field tax audit cover?

1	Less than 1 year
2	1 – 2 years
3	2 – 3 years
4	3 – 4 years
5	4 – 5 years

7. How long did the field tax audit take?

1	Up to 2 weeks
2	Up to 1 month
3	1 – 3 months
4	3 – 6 months
5	6 – 12 months
6	More than 12 months

8. Please, assess the tax auditors on a 5-point scale for the following:

8.1.1. How **friendly or hostile** were they?

1	2	3	4	5
Extremely hostile	Moderately hostile	Neutral (neither friendly nor hostile)	Moderately friendly	Very friendly
Please, elaborate:				

8.2. How **prepared** were they?

[To the interviewer: explain to the respondent that “prepared” refers to the extent to which they knew what they needed to do and what they needed from the company on the first day, rather than changing the plan throughout the audit process.]

1				5
Extremely unprepared	2	3	4	Extremely well prepared
Please, elaborate:				

8.3. How **efficient** were they?

[To the interviewer: explain to the respondent that “efficient” here means that they carried out their activities quickly and without fuss. They only asked for what they needed, providing minimal disruption to the business.]

1				5
Extremely inefficient	2	3	4	Extremely efficient
Please, elaborate:				

8.4. What was your overall assessment of the **competence** of the tax auditors?

1				5
Extremely incompetent	2	3	4	Extremely competent
Please, elaborate:				

9. How would you assess the quality of the written justification provided in the audit report?

1	More or less none provided
2	Very little provided and what was provided was fairly incoherent
3	Some justification but poorly presented and incomplete
4	Generally good justification but weak in places

5	Clear and comprehensive justification
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10. How would you assess the decision of the auditors?

1	Decision was completely wrong
2	Decision was wrong but it did have some reason behind it
3	Decision was wrong but the tax code could be interpreted in different ways
4	Decision was largely right but with some mistakes
5	Decision was completely right

11. Would you be comfortable with disclosing the amount of tax demand issued as a result of the field tax audit?

1	Yes (please, specify the amount of tax demand):
2	No

12. Did you opt for mediation or did you take the dispute to the Revenue Service or the Dispute Resolution Council of the Ministry of Finance?

1	Yes	<i>Go to Part D - Dispute Resolution questionnaire</i>
2	No	

13. Would you be comfortable with disclosing information about the resources (time, cost) spent in the process of field tax audit?

1	Yes (please, elaborate on the resources spent in the process of tax audit):
2	No

[To the Interviewer: Move on to the next audit

OR if there are no more audits to ask questions about, END THE INTERVIEW

Part C: Desk Tax Audit

Date _____

Questionnaire # _____

Interviewer	
Company	
Respondent	
Contact information	

1. Year of the desk tax audit:

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2. In your opinion, what was the reason of the desk tax audit?

1	Substantial increase/decrease in the volume of economic activity of the company
2	Request submitted to the Revenue Service to return overpaid tax
3	Expiry of statute of limitation
4	Random selection through risk based approach
5	Other (please, specify):

3. What was the type of the desk tax audit?

1	Comprehensive audit
2	Audit of a specific matter (please, specify):

4. How many tax years did the desk tax audit cover?

1	Less than 1 year
2	1 – 2 years
3	2 – 3 years
4	3 – 4 years
5	4 – 5 years

5. How long did the desk tax audit take?

1	Up to 2 weeks
2	Up to 1 month
3	1 – 3 months
4	3 – 6 months
5	6 – 12 months
6	More than 12 months

6. If you have been in contact with the desk auditors during the audit process, please, assess the tax auditors on a 5-point scale for the following:

[To the interviewer: if the respondent's company was not in touch with the desk auditors during the audit process, SKIP TO Q7.]

6.1. How **friendly or hostile** were they?

1	2	3	4	5
Extremely hostile	Moderately hostile	Neutral (neither friendly nor hostile)	Moderately friendly	Very friendly

Please, elaborate:

6.2. How **prepared** were they?

[To the interviewer: explain to the respondent that “prepared” refers to the extent to which they knew what they needed to do and what they needed from the company on the first day, rather than changing the plan throughout the audit process.]

1 Extremely unprepared	2	3	4	5 Extremely well prepared
Please, elaborate:				

6.3. How **efficient** were they?

[To the interviewer: explain to the respondent that “efficient” here means that they carried out their activities quickly and without fuss. They only asked for what they needed, providing minimal disruption to the business.]

1 Extremely inefficient	2	3	4	5 Extremely efficient
Please, elaborate:				

6.4. What was your overall assessment of the **competence** of the tax auditors?

1 Extremely incompetent	2	3	4	5 Extremely competent
Please, elaborate:				

7. How would you assess the quality of the written justification provided in the desk tax audit report?

1	More or less none provided
2	Very little provided and what was provided was fairly incoherent
3	Some justification but poorly presented and incomplete
4	Generally good justification but weak in places
5	Clear and comprehensive justification

8. How would you assess the decision of the auditors?

1	Decision was completely wrong
2	Decision was wrong but it did have some reason behind it
3	Decision was wrong but the tax code could be interpreted in different ways
4	Decision was largely right but with some mistakes
5	Decision was completely right

9. Would you be comfortable with disclosing the amount of tax demand issued as a result of the desk tax audit?

1	Yes (please, specify the amount of tax demand):
2	No

10. Did you opt for mediation or did you take the dispute to the Revenue Service or the Dispute Resolution Council of the Ministry of Finance?

1	Yes	<i>Go to Part D - Dispute Resolution questionnaire</i>
2	No	

11. Would you be comfortable with disclosing information about the resources (time, cost) spent in the process of desk tax audit?

1	Yes (please, elaborate on the resources spent in the process of tax audit):
2	No

[To the Interviewer: Move on to the next audit

OR if there are no more audits to ask questions about, END THE INTERVIEW]

Part D: Dispute Resolution (applicable to both Field and Desk Audits)

Date _____

Questionnaire # _____

Interviewer	
Company	
Respondent	
Contact information	

1. Did you present your position about the draft audit report and request its modification through mediation?

1	Yes	
2	No (Please, explain why not):	<i>Skip to Q3</i>

2. To what extent was your request satisfied and position incorporated in the audit report?

1	Our position was fully incorporated
2	Major modifications were incorporated
3	Minor modifications were incorporated
4	Our position was not incorporated at all

3. Did you appeal the tax demand issued as a result of the tax audit at the Revenue Service?

1	Yes
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2	No (Please, explain why not):	<i>Skip to Q13</i>
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4. How long did it take to receive the decision of the Revenue Service starting from the day when such appeal was submitted?

1	1-20 days as prescribed in the Georgian Tax Code
2	21 days – 1month
3	1 – 2 months
4	2 – 3 months
5	More than 3 months (please, specify):

5. To what extent was your appeal satisfied at the Revenue Service?

1	Appeal was fully satisfied
2	Major part of the appeal was satisfied
3	Minor part of the appeal was satisfied
4	Appeal was not satisfied at all

6. How would you assess the quality of the written justification provided in the decision of the Revenue Service?

1	More or less none provided
2	Very little provided and what was provided was fairly incoherent
3	Some justification but poorly presented and incomplete
4	Generally good justification but weak in places
5	Clear and comprehensive justification

7. How would you assess the decision of the Revenue Service?

1	Decision was completely wrong
2	Decision was wrong but it did have some reason behind it
3	Decision was wrong but the tax code could be interpreted in different ways
4	Decision was largely right but with some mistakes
5	Decision was completely right

8. Did you appeal the decision of the Revenue Service to the Ministry of Finance Dispute Resolution Council?

1	Yes	
2	No (please, explain why not):	<i>Skip to Q13</i>

9. How long did it take to receive the decision at the Ministry of Finance Dispute Resolution Council starting from the day when such appeal was submitted?

1	1-20 days as prescribed in the Georgian Tax Code
2	21 days – 1month
3	1 – 2 months
4	2 – 3 months
5	More than 3 months (please, specify):

10. To what extent was your appeal satisfied at the Ministry of Finance Dispute Resolution Council?

1	Appeal was fully satisfied
2	Major part of the appeal was satisfied
3	Minor part of the appeal was satisfied
4	Appeal was not satisfied at all

11. How would you assess the written justification provided in the decision of the Ministry of Finance Dispute Resolution Council?

1	More or less none provided
2	Very little provided and what was provided was fairly incoherent
3	Some justification but poorly presented and incomplete
4	Generally good justification but weak in places
5	Clear and comprehensive justification

12. How would you assess the decision of the Ministry of Finance Dispute Resolution Council?

1	Decision was completely wrong
2	Decision was wrong but it did have some reason behind it
3	Decision was wrong but the tax code could be interpreted in different ways
4	Decision was largely right but with some mistakes
5	Decision was completely right

13. Did you appeal the decision at the Court?

1	Yes (please, provide overall assessment of the dispute resolution process at the Georgian Courts in relation to tax disputes (e.g. competence, attitude of judges, etc):	
2	N (please, indicate why not):	<i>Skip to Q15</i>

14. What was the final decision issued by the Court?

1	Claim was fully satisfied
2	Major part of the claim was satisfied
3	Minor part of the claim was satisfied
4	Claim was not satisfied at all

15. Did at any time during the tax audit or tax dispute resolution the Revenue Service impose enforcement measures upon the company to secure the claims (e.g. tax lien, mortgage, etc)?

1	Yes, before the end of tax audit	
2	Yes, after the end of tax audit, but before appealing it the tax demand	
3	Yes, during the dispute resolution process	
4	No	<i>Skip to Q17</i>

16. Please, describe and assess the imposed enforcement measures according to the following:

1	Type:
2	Proportionality:
3	Reasonableness:
4	Impact on the business:

17. Would you be comfortable with disclosing how the amount of tax demand was modified through the dispute resolution process?

1	Amount of tax demand was not modified through the dispute resolution
2	Amount of tax demand was decreased by the Revenue Service (please, indicate the proportion):

3	Amount of tax demand was decreased by the Ministry of Finance Dispute Resolution Council (please, indicate the proportion):
4	Amount of tax demand was decreased by the Court (please, indicate the proportion):
5	I am not comfortable with sharing this data

18. Would you be comfortable with disclosing information about the resources (time, cost) spent in the process of tax audit and tax dispute resolution?

1	Yes (please, elaborate on the resources spent in the process of tax audit and tax dispute resolution):
2	No

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