

**GUIDE TO
THE TAX CODE OF GEORGIA**



**December 2001
Georgia**

Forward from the Chairman

The Tax Department of the Tax Revenue Ministry of Georgia is committed to providing the public with information that will promote a greater understanding of the tax system of Georgia. Publication and distribution of the *Guide to the Tax Code*, drafted by KPMG Consulting will greatly advance our efforts in this area. The *Guide* provides individuals with a basic understanding of the tax system, as well as their rights and obligations under the Tax Code. Major taxes set forth in the Tax Code are explained, and filing and tax payment dates are provided.

Use of the information provided in the *Guide* will benefit both the citizens of Georgia and the Tax Department. Greater information about the tax system will help increase tax compliance, allowing the Tax Department to collect and transfer to the budget all taxes set forth in the Tax Code. Equally important, use of the information will help ensure that taxpayers pay only the tax rightfully due and increase their awareness of the rights and responsibilities under the Tax Code. The end result is a fairer tax system.

The *Guide* is not law and cannot supercede the Tax Code and other legislative acts. While the Tax Department believes this is a very useful resource, it bears no responsibility for the contents of the *Guide*.

Once again, we wish to express our appreciation to the United States Agency for International Development (USAID) and its contractor, KPMG Consulting, for drafting and publishing the *Guide*.

Sincerely,



Levan Chrdileli
Chairman
Tax Department of the
Tax Revenue Ministry of Georgia



Guide to the Tax Code of Georgia

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Note: This *Guide* is based on tax laws in effect on December 1, 2001.

Section I. Introduction

What is the purpose of this Guide?

This *Plain Language Tax Guide* is written primarily for individuals who do not have an extensive knowledge of Georgian tax laws, although tax practitioners may also find it to be a useful resource. It is intended to provide a general overview of the Tax Code, and provides explanations of major types of taxes imposed along with payment and filing requirements. While it covers many articles of the Tax Code, it does not cover the Tax Code in its entirety. The *Guide* is not a law, and is not intended to supercede or modify any provisions contained in the Tax Code or accompanying tax instructions. Taxpayers should refer to the Tax Code and instructions to determine the tax effect of any transaction.

For additional information on any topic contained in the *Guide* the individual is encouraged to refer to specific Tax Code articles, which are provided in parenthesis () throughout this *Guide*. Unless otherwise noted, all references contained in this *Guide* are to the Tax Code of Georgia. This *Guide* is based on tax laws in effect on December 1, 2001.

What topics are included in this Guide and how is it organized?

This *Guide* is organized into the following Sections:

Section I	Introduction
Section II	Basis of Taxation, Types of Taxes and Due Dates
Section III	Definitions of Terms
Section IV	Income Tax
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Section XI	Sanctions, Fines and Penalties
Section XII	Appeal Procedures
Section XIII	Taxpayer Rights and Obligations
Section XIV	Summary

Section II. Basis of Taxation, Types of Taxes and Due Dates

What is a “tax”?

A *tax* is defined as a compulsory transfer of money from private individuals, institutions and commercial enterprises to a government to finance government expenditures, suppress or stimulate the economy of a state or a nation, or further a political purpose. Revenues from some taxes (e.g., income and profit taxes) go directly to national or municipal budgets to be used to pay for budget expenditures, while revenues from other taxes (e.g., social taxes, road taxes) are intended to fund designated programs. (Article 5)

Taxes levied on wealth or income are referred to as *direct taxes* (e.g., income tax and profit tax). Taxes in the form of a surcharge on price are referred to as *indirect taxes* (e.g., excise and Value Added Tax). All taxes in Georgia must be calculated and paid in GEL (lari). (Article 6.5)

What is the source of tax laws?

The Tax Code of Georgia (Tax Code) is the principal source of tax law, and is referred to as a *normative act*. (Article 1) The Tax Code is divided into *Parts* that are further divided into *Chapters* and *Articles*. Some Tax Code articles have accompanying instructions that are intended to explain provisions contained in the Tax Code. These instructions, referred to *subordinate normative acts*, have the force of law. Taxpayers who have questions on any articles of the Tax Code should refer to the instructions for clarification. However, if there is a conflict between the Tax Code and the instructions the Tax Code will prevail. (Article 4.2)

The Tax Code has been amended many times since it was published on June 13, 1997. Therefore, it is important to refer to the current version of the Tax Code when analyzing current or proposed tax transactions. Conversely, if the tax at issue is for an earlier period the taxpayer should refer to the Tax Code in existence when the tax liability was incurred. Unless otherwise noted in the Tax Code, tax laws cannot be applied retroactively. (Article 4.6)

Can taxes be regulated through legislation other than the Tax Code?

While other laws can affect taxation they cannot contradict provisions in the Tax Code. (Article 4.3, 4.5 and 4.7) Tax exemptions and concessions can be granted only through amendments to the Tax Code. (Article 6.6 and 6.7) Tax issues cannot be regulated by other legislation, except:

- administrative offenses (included in the Administrative Offenses Code)
- tax crimes (included in the Criminal Code)
- priority of tax obligations (included in bankruptcy laws)
- customs (customs legislation)

- levies
- provisions pertaining to the Law on the Road Fund of Georgia. (Article 4.7).

What are the various types of taxes imposed by the Tax Code?

The Tax Code imposes national and local taxes, listed below. No one is obligated to pay a tax that is not stipulated in the Tax Code. (Article 3.2) The Abkhazia and Adjara Autonomous Republics, as well as local self-government bodies, may impose local taxes as stipulated by the Tax Code. (Article 3.4) A short description is provided for each of the taxes. Additional information on each of the national taxes is provided in subsequent sections of this *Guide*.

National taxes

- Income tax—tax imposed on taxable income earned from economic activities (including wages, interest and dividends) earned by employees and physical person entrepreneurs (Articles 35-43 and 48-89)
 - In lieu of income taxes certain physical person entrepreneurs with annual gross income not exceeding 24000 GEL are subject to a presumptive tax. This tax is calculated on a monthly basis and is based on the activities conducted and the population where the activities are conducted. Refer to article 273 (17-25) for presumptive tax rates and other provisions, including a penalty that may be imposed for violations. Taxpayers subject to the presumptive tax are still subject to all other taxes (excluding income taxes).
- Profit tax—tax imposed on taxable profits earned by enterprises (Articles 44-47 and 48-89)
- Value added tax (VAT)—tax on the consumption of goods, works and services (Articles 90-121)
- Excise—tax imposed on specified goods to raise revenue and/or to restrict the consumption of certain products. (Articles 122-135)
- Property tax—tax imposed on property, including
 - immovable property owned by physical persons (Articles 136-139)
 - property (such as fixed assets and intangible assets) listed on the balance sheet of an enterprise (Articles 140-145)
- Land tax—tax imposed on owners and users of land used for agricultural as well as non-agricultural purposes (Articles 146-158)
- Tax on the ownership of motor vehicles—tax imposed on owners of motor vehicles (Articles 159-163)

- Tax on the transfer of property, including:
 - tax imposed on the transfer of immovable property (Article 164-169)
 - inheritance and gift tax—tax imposed on inherited and gifted property (Articles 170-177)
 - tax on the transfer of motor vehicles—tax imposed on the transfer of motor vehicles (Articles 178-83)
- Social tax—tax on wages imposed on both employees and employers designated for the Social Fund and Employment Fund (Articles 184-189)
- Tax on the use of natural resources—tax imposed on the use of state-owned natural resources, excluding land (Articles 190-196)
- Tax on polluting the environment with harmful substances—tax imposed on physical and legal persons(including branches and other structural units of entities listed in article 12.1.c) who pollute the environment or import or produce gasoline and certain other products (Articles 197-202)
- Tax on motor vehicles that enter the territory of Georgia and on overloaded vehicles—tax imposed on:
 - possessors or drivers of vehicles that are registered abroad that enter the territory of Georgia, and on possessors or drivers of trucks that are registered in Georgia and are in transit, and
 - possessors or drivers of overloaded vehicles, regardless of country of vehicle registration. (Articles 203-207)

Sections of this *Guide* provide additional information, including rates, payment due dates and filing due dates, on VAT, Excise Income, Profit and Social Taxes. Other national taxes are described briefly in one section. To obtain information on other taxes individuals should refer to the Tax Code articles cited above.

Local Taxes

Local taxes are collected by local governments and/or the Tax Department and are remitted to local governments. Local taxes are as follows.

- Tax on economic activity (Article 209)
- Tax on gambling business (Article 210)
- Resort tax (Article 211)
- Hotel tax (Article 212)
- Advertisement tax (Article 213)
- Tax on use of local symbols (Article 215)

To obtain information on local taxes individuals should refer to the Tax Code articles cited above and to instructions published by municipal agencies.

What can I find laws governing tax administration?

Laws governing tax administration can be found in articles 216 through 257 of the Tax Code. This Part of the Tax Code is divided into the following Chapters.

- General provisions (Articles 216-223)
- Communications with Taxpayers (Articles 224-226)
- Instructions and Rulings (Articles 227-228)
- Submission and Collection of Information (Articles 229-234)
- Assessments of Tax Amounts (Articles 235-237)
- Payment, Collection and Refund of Tax (Articles 238-243)
- Enforced Payment of Tax (Articles 244-250)
- Liability (Articles 251-255)
- Settlement of Disputes. (Articles 256-257)

The final Part of the Tax Code defines the status and structure of the tax agencies in Georgia, and is divided into the following Chapters.

- General Provisions (Articles 258-263)
- Rights and Obligations of Tax Agencies (Article 264-268)
- Legal and Social Protections for Employees of the Tax Agency (Article 269-270¹)
- Concluding and Transitional Provisions (Article 271-274)

Additional information on tax administration provisions is provided in Sections XI-XIII of this *Guide*.

Who has the authority to assess and collect taxes?

Unless otherwise provided in the Tax Code tax agencies have sole power to assess and collect taxes. (Articles 3 and 4)

When are taxes due?

Due dates for payment of taxes differs according to the type of tax. A summary of due dates for the payment of five of the national taxes is provided in the following table. Refer to Tax Code articles mentioned previously for payment dates applicable to other taxes.



Tax Payment Due Dates

Tax Year	Income ¹		Profit ²	VAT ³	Excise ⁴	Social ⁵	
	Employment	Entrepreneur				Employment	Entrepreneur
January	withheld			15 th	10 th	withheld	
February	withheld			15 th	10 th	withheld	
March	withheld			15 th	10 th	withheld	
April	withheld			15 th	10 th	withheld	
May	withheld	15 th	15 th	15 th	10 th	withheld	15 th
June	withheld			15 th	10 th	withheld	
July	withheld			15 th	10 th	withheld	
August	withheld	15 th	15 th	15 th	10 th	withheld	15 th
September	withheld			15 th	10 th	withheld	
October	withheld			15 th	10 th	withheld	
November	withheld	15 th	15 th	15 th	10 th	withheld	15 th
December	withheld			15 th	10 th	withheld	

References to table:

¹ Income taxes must be withheld at the source by physical and legal persons who make payments to employees, as well as for certain other payments. (See article 88 for additional information on who is required to withhold taxes at the source of payment. Note that article 88.2¹ provides that branches and other structural units of entities listed in article 12.1.c are also subject to withholding rules.) Physical persons engaged in entrepreneurial activities must submit income tax payments (with accompanying calculation) three times per year based on the tax liability of the previous year. (Article 89) Presumptive taxes are imposed in lieu of income taxes for certain entrepreneurs. Presumptive taxes are due on or before the 10th day of each month. (See article 273.20 for additional information.)

² Legal persons must submit profit tax payments (with accompanying calculation) three times per year based on their tax liability of the previous year. (Article 89)

- ³ Payment is calculated and due for previous month, i.e., VAT payment for January is due on or before February 15. (Article 116)
- ⁴ Payment is calculated and due for previous month, i.e., excise tax payment for January is due on or before February 10. See article 131 for certain exceptions for excise taxes.
- ⁵ Physical or legal persons who make payments to employees or contractors withhold social taxes when wages or other payments subject to social tax are made. (Article 189.1. and 2). Physical person entrepreneurs and physical persons defined in article 1 of the Law on Entrepreneurs must submit social tax payments (with accompanying calculation) at the same time income taxes are paid. (Article 189.3)

Can taxpayers receive an extension of time to pay a tax?

A taxpayer may apply in writing for an extension of time (limited to three months or less) to pay a tax. The extension for time to pay is not automatic, as it is for filing. Even if the extension is granted the taxpayer will still be subject to fines for late payment from the original due date of the tax. (Article 241) (See Section XI of this *Guide for additional information on fines.*)

When must tax returns be submitted?



Dates for submission of tax returns differs according to the type of tax. A summary of due dates for the submission of returns for five of the national taxes is provided in the following table. Refer to Tax Code articles mentioned previously for payment dates applicable to other taxes.

Tax Filing Due Dates

Calendar Year	Income ¹	Profit ²	VAT ³	Excise ⁴	Social ⁵	
					Employment	Entrepreneur
January	30th ^a		15 th	10 th	15 th	
February			15 th	10 th	15 th	
March	31st ^b	31st	15 th	10 th	15 th	31 st
April			15 th	10 th	15 th	
May			15 th	10 th	15 th	
June			15 th	10 th	15 th	
July			15 th	10 th	15 th	
August			15 th	10 th	15 th	
September			15 th	10 th	15 th	
October			15 th	10 th	15 th	
November			15 th	10 th	15 th	
December			15 th	10 th	15 th	

References to table:

^{1a} Prior to January 31st of the following year physical and legal persons who withhold tax at the source of payment are required to present to the tax agencies and, if requested, to the physical person who was paid, a statement reflecting the registration number of that person, his/her name, the total amount of income, and the total amount of tax withheld during the year. (Articles 12 and 88.3) Note that due to article 88.2¹ branches and other structural units of entities listed in article 12.1.c are also subject to these rules.)

^{1b} Prior to April 1 of the following year, the following must submit an income tax return:

- resident physical persons having income not taxed at the source of payment in Georgia
- resident physical persons having monetary resources in accounts with foreign banks
- nonresident physical persons having income from a Georgian source that is not taxed at the source of payment
- resident physical persons whose expenditure incurred during the tax year exceeded 25000 GEL. (Article 87.1)

See article 89.2 for filing information for taxpayers who did not have taxable income in the previous tax year.

² Resident legal persons, as well as nonresident legal persons that have income from a Georgian source that is not taxed at the source of payment, must submit a profit tax return prior to April 1st of the year following the reporting year. (Article 87.1)

³ Returns are submitted for transactions conducted during the previous month, i.e., the VAT return for January is due on or before February 15. (Articles 116 and 117)

⁴ Returns are submitted for transactions conducted during the previous month, i.e., the excise return for January is due on or before February 10. (Article 132)

- ⁵ Physical or legal persons who make payments to employees or contractors submit social tax returns prior to the 15th day of the following month. (Article 189.4)
Physical person entrepreneurs submit their social tax return together with their income tax return. (Article 189.3)

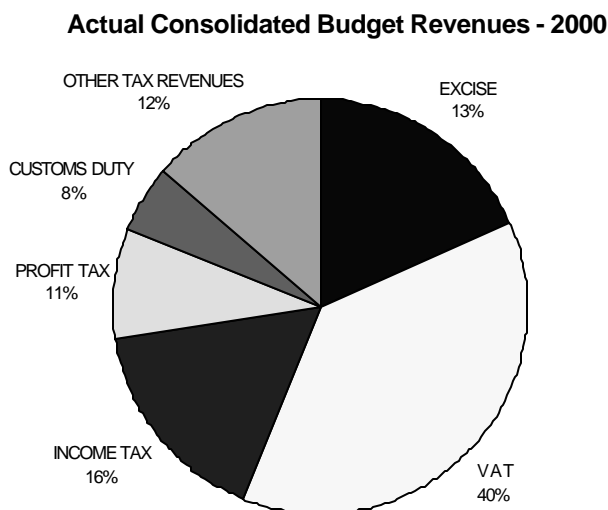
Can taxpayers receive an extension of time to file a return?

Before the due date of an income, profit or property tax return a taxpayer may apply to a tax body for an extension of time to submit the return. If the taxpayer pays the tax due at the time the extension is requested the time for submitting the tax return will be automatically extended for three months. (Article 232)

Note: The granting of an extension to file does not extend the due date for the payment of tax.

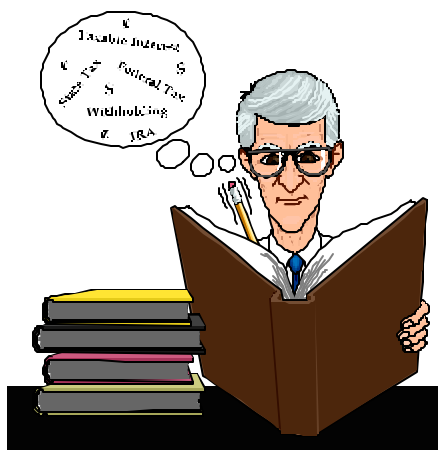
How much do the major taxes contribute to the national budget?

In 2000 (the most recent year data is available), the percentage of consolidated budget revenues was as follows.



As this chart indicates, VAT is the largest raiser of revenue, comprising 40 percent of total revenues. Excise, income and profit taxes also generate significant revenues.

Section III. Definitions of Terms



The Tax Code contains a number of terms, many of which have a specific meaning that may differ from the common meaning of the term. Therefore, it's important to understand and apply the definitions provided in the Tax Code. Definitions of many terms are provided in Part I of the Tax Code, specifically article 29. Additional definitions are provided in other articles throughout the Tax Code. In some cases definitions from other laws are adopted by reference. In a few cases a term is used in the Tax Code but a definition is not provided. *International organization* referred to in articles 25 and 47 is one such example of a term that is used but undefined. Until a definition of these and other terms are provided in either the Tax Code or accompanying instructions the general definition of these terms should be used.

Be aware that in some cases application of the definitions to specific facts does not always yield definitive conclusions. Therefore, it is important that the taxpayer, as well as representatives of the Tax Department, always provide a reasonable basis for any position taken.

Below are definitions, with citations to the Tax Code, of some important terms used in the Tax Code. Additional terms are defined and used throughout this *Guide*.

1. Types of Activities

Economic activity—any activity that is undertaken with the intent to generate profit, income or compensation, regardless of whether or not the activity generated a profit, income or compensation. With some exceptions, activities engaged in for charitable or religious purposes or conducted by government agencies are not considered economic activities. (Article 7.1-3) See articles 21 and 22, respectively, for information on what constitutes charitable and religious activities.

Example

In 1997 Georgian Firm RR established a printing business with the intent of making a profit. In 1997, 1998 and 1999 Firm RR did not receive any income, but incurred losses. Because the intent was to make a profit, Firm RR is considered to be engaged in an economic activity.

Economic activities can be further classified into *entrepreneurial* and *non-entrepreneurial* activities.

Entrepreneurial activity— economic activity that requires some form of active participation by the taxpayer. The Law of Georgia on Entrepreneurs provides that an entrepreneurial activity is any “legitimate and repeated activity carried out independently and in organized manner to gain profit.” The Tax Code adds that entrepreneurial activity is economic activity that is carried out in the form of commercial transactions or other economic operations. (Article 8.1)

Economic activity connected to the acquisition or sale of securities or any other property is recognized as entrepreneurial activity if at least one of the following circumstances exists:

- the activity is performed on a systematic basis and is a professional activity for the person that conducts the transactions
- goods, works or services that are produced, executed or rendered by the seller are sold, or
- such transactions are carried out within the framework of a trade, trade-intermediary (including dealers' activities), or intermediary activities. (Article 8.4)

Non-entrepreneurial activity—economic activity that does not require active participation by the taxpayer. (Article 8. 2-5) Examples of non-entrepreneurial (or “passive”) activities include:

- investing in interest bearing accounts or securities at banks and other financial institutions,
- investing in equities,
- renting or leasing property, and
- other non-entrepreneurial activities.

2. Forms used to Conduct Economic Activities

Economic and non-economic activities described above can be conducted in a number of different forms. The most common forms are described below.

Physical Person Entrepreneur—a physical person (individual) who engages in an entrepreneurial activity without establishing a legal person (see below) and in accordance with Article 2 of the Law of Georgia on Entrepreneurs. For tax purposes a person will still be considered an entrepreneur even if he/she conducts his/her entrepreneurial activity in violation of established procedure for registration and receipt of a license, certificate, or any other required document (Article 26, and Article 2 of the Law on Entrepreneurs)

Enterprises--entities that conduct, or are formed to conduct, one or more economic activities. (Article 12.1) Enterprises include:

- legal persons, which are entities established according to the legislation of Georgia, including branches and other separate units that have their own balance sheet and a separate settlement or other account
- corporations, companies, firms, and other similar types of entities established pursuant to the legislation of foreign states.

Enterprises can be further separated into *Georgian enterprises* and *foreign enterprises*. The principal difference between Georgian and foreign enterprises is the place of activity or management. (Note that the same criteria are used to determine if a legal person is considered a *resident* or *non-resident*.) For Georgian enterprises, the place of activity or management is located on the territory of Georgia. Conversely, for foreign enterprises the place of activity or management is located outside the territory of Georgia. (Article 13) The “place of activity” and the “place of management” are defined as follows.

Place of activity--the place where the enterprise filed its state registration. If an enterprise has not registered, its place of activity is considered to be the place indicated in the enterprise’s originating documents (charter or agreement). (Article 14) The place of activity of an individual enterprise (see definition below) is the place where the person conducts his/her economic activity. (Article 15)

Place of management--the place where the managers of the enterprise perform their managerial duties. (Article 16)

In instances where there is more than one place of activity or place of management, or where there the place of activity and place of management do not coincide, the predominant place should be used to determine the place of activity or management.

Foreign enterprises, as well as non-resident physical persons who conduct economic activity, may have a “permanent establishment” in Georgia.

Permanent establishment--the place through which a taxpayer carries out, in full or in part, an economic activity. (Article 17) Examples of permanent establishments include:

- construction sites, assembly or building facilities
- installations sites, drilling equipment or ships used for surveying for natural resources, as well as the exercise of controlling activities connected with such facilities
- a permanent base where a non-resident physical person carries out entrepreneurial activity.

A place is not considered a permanent establishment of a foreign enterprise in Georgia if is used (regardless of who uses it) only to:

- store goods or products belonging to the foreign enterprise
- keep a stock of goods or products belonging to the foreign enterprise only for the purpose of their processing by another person
- purchase goods or products or collect information for the foreign enterprise
- perform any other activities that are preparatory or auxiliary in nature coming from the interests of the foreign enterprise.

Individual enterprise—an entity owned and managed by a single physical person. (Article 18) In addition, the following are considered to be an individual enterprise:

- an enterprise in which the sole participants are family members, regardless of whether they manage the enterprise jointly or only one of them does this by joint consent
- a farm established in the order prescribed by legislation, without establishment of a legal person and whose sole owner is an individual or members of his/her family.

Note: Individual enterprises are not taxed as enterprises under the Tax Code. (Article 12.2). Rather, individual enterprises are taxed as *physical person entrepreneurs*. (See above.)

Organization—budgetary, charitable, religious and other entities established as legal persons that are not engaged in entrepreneurial activities. The place of activity and management of the organization, as well as the determination of whether it is classified as Georgian or foreign, is determined under the rules applicable to enterprises. Note that organizations are not precluded from engaging in economic activities (although the extent of the activities may affect its status as an organization), but will be subject to applicable taxes on these activities. (Article 19)

See articles 20 to 22 for additional information on budgetary, charitable and religious organizations.

3. Other Common Terms used in the Tax Code

Other terms used often throughout the Tax Code are provided below.

Tax year—a calendar year. (Article 67)

Person—a *physical person* (individual) or *legal entity*. (See *legal person* under the definition of *enterprise*.) A *physical person* may be further classified as a *resident* or *non-resident*.

Resident—a physical person who is actually located on the territory of Georgia for 182 days or more during a tax year, subject to exceptions. (Article 25) A day in Georgia is considered any part of any day in which the physical person is located in Georgia. However, days spent in Georgia by persons with diplomatic status and others specified in article 25.2 are not considered as days in Georgia for the residency test. Days in transit in Georgia also are not considered days in Georgia for the residency test. (Article 25.2)

Non-resident—a physical person who is not actually located on the territory of Georgia for 182 days or more during a tax year, subject to exceptions. (Article 25)

Note: Resident versus non-resident status is determined at the end of the tax year. The distinction between resident and non-resident physical persons affects income subject to tax in Georgia.

Employment—the performance by a physical person of obligations within the framework of relations regulated by legislation on labor or on state service, including positions of managing director. (Article 9.1) An employment relationship involves the following parties.

Employer—a legal or physical person who pays wages to a physical person for services that are performed under the direct control of the employer. (Article 9. 2)

Employee—a physical person who performs services under the direct control of another. Payments to employees are termed *wages*. (Article 9. 2)

Related person—legal or physical persons who, by virtue of a special relationship (described below) may directly affect the conditions or economic results of transactions. (Article 24) Related persons include:

- founders and shareholders who own 20 percent or more of the same enterprise
- one person who has a direct or indirect interest of 20 percent or more in an enterprise

- one person is subordinate to the other person in terms of his business position or one person is under control (directly or indirectly) of the other person
- persons are subsidiary enterprises or are under direct or indirect control of a third person
- persons jointly (directly or indirectly) control third persons
- persons are relatives.

Relatives are defined in article 29.4 as:

- spouses
- ancestors or descendants
- sisters or brothers
- nephews and nieces
- spouse of a sister or brother
- sister or brother of parents (aunt or uncle)
- persons who, as a result of a guardianship relationship for an extended period (which is not defined), are considered to be parents or children.

Step sisters and brothers have the same status as natural sisters and brothers, and adopted children have the same status as natural children. Generally, parents and children related under guardianships have the same status as blood relatives. (Article 29.4)

Goods—tangible or intangible property (with exceptions for money and land for VAT purposes). (Article 29.13)

Supply of goods—the transfer of ownership of goods by sale, exchange, gift, and other forms of transfer. (Article 29.15)

Works—geological surveying, construction, installation and repair, scientific-research and development. (Article 29.11)

Fulfillment of works—works conducted and completed in return for compensation. (Article 29.12)

Services—any activity performed (other than activities described under *supply of goods* or *fulfillment of works*, above) that provides a service (as opposed to production), including:

- transportation
- leasing of movable and immovable property
- communications, consumer, housing and communal services
- sports
- advertising
- data processing and information
- preparation of goods for sale;
- storage of goods or other property and/or protection
- other activities. (Article 29.10)

A separate definition of *financial services* is provided in article 29.16.

Rendering of services—any activity performed for compensation, excluding the supply of goods and fulfillment of works. For value added tax purposes, rendering of services does not include the transfer of money or ownership of land, or services performed by an employee for his/her employer. (Article 29.10)

Profit—gross income less deductions allowable by the Tax Code. (Article 45.1)

Net profit—profit less profit tax. (Article 29.23)

Income—money or money equivalents received for the performance of economic activities, satisfaction of claims, or gifts and inheritances unless specifically exempted by the Tax Code. (The Tax Code does not provide a definition of income, but lists many types of Georgian source income in article 29.18. See also articles 37.3 and 45.1)

Compensation— money or money equivalents received for the performance of economic activities or satisfaction of claims, but excluding that received through gift or inheritance. (The Tax Code does not provide a definition of compensation although the term is used throughout the Tax Code. See articles 7.1, 8.2, 29.10, 29.12 and 29.18.d.)

Wages—money or money equivalents paid by an employer to an employee for services performed in the course of employment. (The Tax Code does not provide a definition of wages, but article 37.3.a does provide that it is a type of income. See also article 9.2)

Market price—the price at which identical or similar goods or services are transacted between independent buyers and sellers at a market. (Article 27) The taxpayer should record and maintain records of identical or similar transactions to support his/her determined market price.

Bad debt—arrears of unpaid taxes, penalties and interests that may be extinguished under article 250 if it is determined that the taxpayer does not possess sufficient assets to satisfy the amount due or cover the costs of litigation to enforce the tax liability. (Article 29.28)

Doubtful debt—all or portion of an amount owed to a taxpayer that is considered uncollectible due to the age of the debt and other factors, in consistence with international accounting standards. (Article 29.29)

Taxpayer identification number (TIN)—a number assigned by the tax agency to a physical or legal person. (Article 29.2). See Section XIII of this *Guide* for additional information on who is required to register and obtain a TIN.

Section IV. Income Tax

What is an income tax?

An income tax is a tax imposed on wages and income from economic activities, including income received in non-monetary form, earned by physical persons (both resident and non-residents, per below) during the tax year. (Article 35, 37.3) Unless specifically excluded all wages and other forms of income are included in gross income, regardless of whether the activity that generated the income was legal. (Articles 7 and 37)

What income is subject to income tax?

In order to determine what income is subject to income tax the taxpayer must first determine whether he/she is classified as a resident or non-resident of Georgia. (These terms were defined in Section III of this *Guide*.)

- Georgian residents are subject to income tax on taxable income, defined as gross income from all sources (Georgian and non-Georgian) that was received during the tax year, regardless of where the income was earned or paid, less allowable deductions. (Articles 36.1 and 37.1). (Refer to Section VI of this *Guide* for information on allowable deductions.)
- Non-residents are also subject to Georgian income tax, but only on income received from Georgian sources (defined below). (Article 37.2) Non-residents are subject to tax as follows.
 1. Non-residents of Georgia who engage in economic activities through a permanent establishment (see Section III of this *Guide*) are subject to income tax on taxable income connected with the permanent establishment. Here, taxable income is defined as gross income received during the tax year from Georgian sources connected with the permanent establishment, less deductions allowable by the Tax Code. (Article 36.2)
 2. Non-residents of Georgia who do not engage in economic activities through a permanent establishment but who receive income from Georgian sources are subject to income tax on gross income, without deductions, and the tax is withheld at the source of payment. (Article 36.3) Note, however, that article 87.5 allows such non-residents who receive certain types of income (insurance payments, royalties, and other types of income provided in article 64.1c-e) to file a return and claim any deductions allowable as if this income was connected to a permanent establishment.
 3. Non-resident physical persons who receive from Georgian sources employment income or income from the sale of the property used for entrepreneurial activity are subject to income tax on the amount of such income, reduced by deductions attributable to the income. (Article 36.4)

What constitutes “income from a Georgian source”?

Article 29.18 lists the types of income from Georgian sources. The types of Georgian source income are as follows:

- income received from employment performed in Georgia
- income from the sale of goods and performance of works and services in Georgia
- income attributable to a permanent establishment located on the territory of Georgia, including income attributable to sales in Georgia of goods of the same or similar kind as those sold through such permanent establishment, and income received from entrepreneurial activity in Georgia which is from the same or similar activity performed by the permanent establishment
- income from the cancellation of the liabilities as a result of writing-off bad debts and income from selling fixed assets, or income from compensation (per article 79) which are related to entrepreneurial activity carried out in Georgia
- income in the form of dividends received from a resident legal person and from the sale of shares of stock in such legal person
- income in the form of interest received from residents
- pensions paid by a resident
- income in the form of interest received from a person with a permanent establishment or property located on the territory of Georgia if the indebtedness is related to such permanent establishment or property
- income in the form of royalties paid in connection with rights or property located or used in Georgia, and income from sale or transfer of property (defined in 29.21) that is located or used in Georgia
- income from leasing movable property that is used in Georgia
- income received from the sale of immovable property located in Georgia that is used in an entrepreneurial activity, including income from the sale of a partner's share in such property
- income from the sale of shares or partner’s share in an enterprise, the value of whose assets consist primarily, either directly or indirectly, of immovable property located in Georgia
- other income from the sale of property by a resident that is not connected with entrepreneurial activity
- income received from management, financial, and insurance services (including reinsurance services) if it is paid by a Georgian enterprise or a permanent establishment located on the territory of Georgia or is received on the basis of a contract with such an enterprise or permanent establishment

- income in the form of insurance payments paid under agreements for the insurance or reinsurance of risk in Georgia
- income from telecommunications or transportation services in international communications or shipments between Georgia and other countries
- other income received from activities conducted in Georgia.

Note: The place where the income is earned, not the place where payment is received, is used in determining the source of income. (Article 29.18.r)

What constitutes “income in the form of wages”?

As explained above, the income tax is imposed on wages as well as on other forms of income. Wages include payments or gains from employment that are received in monetary (GEL) form. (Article 38.1) In addition, wages also include a number of other non-monetary payments or benefits. In some cases the employee must include the benefit in his/her income even though the benefit is received by someone else (for example, tuition paid for an employee’s child). It is important that both payer and the recipient understand what constitutes wages and pay taxes (including applicable social taxes) accordingly.

The benefits listed below are considered wages. Generally, benefits are included in income at the market price at the moment of receipt, reduced by any portion of the benefit paid by the employee. (Article 38) Please refer to article 38 and corresponding instructions for additional information on each of the benefits, including the amount of the benefit that is deemed to be wage income.

- use of an automobile for private use
- loans with an interest rate below market rate
- gifts of goods or gratuitous performance of services
- educational assistance to employee or dependents
- employee expenses reimbursed by his/her employer
- forgiveness of debt obligations owed to the employer
- life and health insurance premiums paid by the employer
- other benefits provided to the employee.

Wage income does not include expenses employees incur for business trips and representation expenses, provided the expenses were moderate and necessary and do not exceed norms (if any) established by the Ministry of Finance. (Article 38.3)

Note: A taxpayer should provide documentation supporting his/her claim that such expenses were moderate and necessary for business purposes. As the Tax

Code does not define “moderate” or “necessary”, the common meanings of these terms should be used.

What other types of income are subject to income tax?

In addition to wages and benefits (listed above) that are deemed wages, income received from economic activities unrelated to employment is also subject to income tax. This includes income from entrepreneurial and non-entrepreneurial activities. (Article 39)

Income from entrepreneurial activities that is subject to income tax includes (per article 39.a):

- income received from the supply of a goods or performance of services
- gains from the sale of assets used for entrepreneurial activity
- income received as a result of the restriction of or closing of an entrepreneurial activity
- gain from the sale of fixed assets
- reimbursement or payment of expenses previously deducted. (See article 79)

Income from non-entrepreneurial activities that is subject to income tax includes (per article 39.b):

- interest (payment earned from a debt obligation (loan) or deposit account per article 29.20)
- dividends (portion of net profit distributed by a legal person to its shareholders per article 29.17)
- income from the lease or rental of property
- royalties (payment received for granting the right to use tangible or intangible property per article 29.21)
- income recognized when debts are written-off
- gains from the sale of assets (other than gains provided above)
- other income or gains (excluding wages).

Is any income exempt from income tax?

A number of types of income are wholly exempt from income tax under article 43, including:

- employment income earned by non-resident employees of diplomatic (or equalized organizations) located on the territory of Georgia
- property received by gift or inheritance from a physical person
- certain grants, state pensions, state stipends, and state benefits
- alimony
- certain other types of income.

See article 43.1 for a complete list of income that is wholly or partially exempt from income tax.

Income received by physical persons specified in article 43.2 (including invalids, single mothers, and others) is exempt from income tax up to 3000 GEL. See article 43.2 for a complete list of individuals who are partially exempt from income tax.

A physical person is entitled to deduct 9 GEL (the non-taxable minimum) for each month wages are earned (even if not paid) from his/her principal employer. (Article 41) See the example below.

Physical person entrepreneurs and individual enterprises with annual gross income equal to or less than 24000 GEL are subject to a presumptive tax in lieu of an income tax. The presumptive tax is calculated per month based on the type of activity conducted and the population where the activity is conducted. Presumptive taxes are due on or before the 10th day of each month. The presumptive tax is now effective through 1 January 2002. (See article 273.17 for rates and 273.17-25 for additional information on presumptive taxes.)

What are the income tax rates?

Unless other rates apply (for example, for dividends and interest), income is taxed according to the following tax rates provided in article 42.1:

	Amount of taxable income during the tax year	Tax Rate
1	up to 200 GEL	12% of the amount of taxable income
2	201 to 350 GEL	24 GEL + 15% of the amount in excess of 200 GEL
3	351 to 600 GEL	46.5 GEL + 17% of the amount in excess of 350 GEL
4	from 601 GEL	89 GEL + 20% of the amount in excess of 600 GEL

How is the income tax computed?

Income taxes on wages are computed on a monthly basis using the income earned in the previous months of the tax year. A deduction of 9 GEL is subtracted from the gross income earned from the taxpayer's principal place of employment. (Article 41) The monthly deduction is permitted for each month of employment, regardless of the number of days worked or whether wages were paid during the month. The following example illustrates the cumulative income tax calculation for an employee.

Example of Cumulative Income Tax Calculation

Year 2000 Month	Gross salary per month	Amount of taxable income during year	Deduct ible non- taxable mini- mum	Taxable Gross Income	Income Tax calculation on cumulative basis (graduated top20%)	Income Tax		
						Accrued Total	Less: Tax paid pre- viously	To be paid in current month
January	400	400	9	391	$46,5+(391-350) 17\%$ = $53,47$	53.47	0	53.47
Febru- ary	400	800	18	782	$89+(782-600)*20\%$ = 125.40	125.40	53.47	71.93
March	400	1200	27	1173	$89+(1173-600)*20\%$ = 203.60	203.60	125.40	78.20
April	400	1600	36	1564	$89+(1564-600)*20\%$ = 281.80	281.80	203.60	78.20
May	400	2000	45	1955	$89+(1955-600)*20\%$ = 360.00	360.00	281.80	78.20
June	400	2400	54	2346	$89+(2346-600)*20\%$ = 438.20	438.20	360.00	78.20
July	400	2800	63	2737	$89+(2737-600)*20\%$ = 516.40	516.40	438.20	78.20
August	400	3200	72	3128	$89+(3128-600)*20\%$ = 594.60	594.60	516.40	78.20
Sep- tember	400	3600	81	3519	$89+(3519-600)*20\%$ = 672.80	672.80	594.60	78.20
Octo- ber	400	4000	90	3910	$89+(3910-600)*20\%$ = 751.00	751.00	672.80	78.20
No- vember	400	4400	99	4301	$89+(4301-600)*20\%$ = 829.20	829.20	751.00	78.20
De- cember	400	4800	108	4692	$89+(4692-600)*20\%$ = 907.40	907.40	829.20	78.20
Totals	4,800	31,200	702	30,498		5,733.87	4,826.47	907.40

Other types of income are taxed at the following rates:

- dividends—10 percent (Article 62)
- interest—10 percent (Article 63).

Dividends and income previously taxed at the source of payment in Georgia (per articles 62 or 63) are excluded from the income tax computation. (Article 40) Furthermore, if adequate documentation is provided, taxes paid on the first 3000 GEL of combined interest and dividends received by the taxpayer may be applied to reduce his/her income tax liability. The maximum amount of this credit is 300 GEL per year. (Article 42.2)

Example

*Assume the taxpayer in the previous example received 2500 GEL of interest and dividends during year 2000, and paid tax of 250 GEL (2500 GEL * 10 percent) on this income at the source of payment in Georgia. The 2500 GEL would not be included in the taxpayer's income tax computation. If documentation of the tax payment is provided, the taxpayer may reduce (credit) his year 2000 total income tax liability by 250 GEL.*

How are income taxes paid?

Generally, income taxes are withheld from payments of wages, dividends, interest, and from certain types of payments to nonresidents. (See below for the withholding tax rates.) The physical or legal person (including branches and other structural units of entities listed in article 12.1.c) making such payments must, as a tax agent, withhold the income tax and pay it to the budget. (Article 88)

The following tax agents withhold income taxes at the source of payment (Article 88.1 and 88.2):

- physical person entrepreneurs and legal persons who make payments to physical persons working as employees
- physical or legal person who pay pensions to physical persons, with the exception of pensions paid under the state social security system
- resident legal persons who pay dividends to physical persons
- physical or legal persons who pay interest to physical persons
- physical or legal persons who make payments stipulated in article 64
- corporations, firms, and other entities established according to laws of foreign countries (Article 12.1.b)
- branches and other separate units stipulated in article 12.1.c.

Physical or legal persons who pay wages to employees of projects implemented through international treaties signed and ratified by Georgia are not considered to be tax agents. They are, however, required to provide tax agencies detailed information concerning the amount of wages paid to their employees. If they fail to do so, they may then be considered tax agents and subject to the withholding requirements described above. (Article 88.5)

Physical and legal persons (including branches and other structural units of entities listed in article 12.1.c) who withhold tax at the source of payment are required to:

- transfer the tax to the budget when making payments to physical persons
- when paying wages, issue to the physical person receiving the income, upon his request, a statement with his last name, the amount and type of income paid and the amount of tax withheld
- within 30 days of the end of the tax year, present to the tax agencies and, if requested, to the physical person who was paid, a statement reflecting the registration number of that person, his/her name, the total amount of income, and the total amount of tax withheld during the year. (Article 88.3)

If the tax agent fails to withhold all required income taxes the tax agent will be required to pay to the budget the tax not withheld, along with applicable fines and penalties. The tax and applicable fines and penalties may be paid by the person who paid on behalf of the tax agent. (Article 88.2)

Physical person entrepreneurs and individual enterprises are required to submit income tax payments in three installments based on their income tax liability of the previous year. The payments are due as follows:

- before May 15—30 percent of tax liability of previous year
- before August 15—30 percent of tax liability of previous year
- before November 15—40 percent of tax liability of previous year. (Article 89.1)

The installment payments will be applied against the taxpayer's annual tax liability. (Article 89.4)

The payments due may be decreased if current year income is expected to be at least 30 percent less than income of the previous year. (See article 89.3 for additional information.) Taxpayers with no income from the previous year shall make payments based on actual income of the previous quarter. (See article 89.2 for additional information.)

What are the withholding rates for various types of income?

The income tax withholding rates usually equal the income tax rates on the various types of income, although there are some exceptions. For example, income received by

a taxpayer from a secondary (not principal) employer is subject to a 20 percent withholding rate, although the actual tax rate on this income will be less if the taxpayer's gross annual income is less than 600 GEL.

On wages paid, the rate of withholding increases as the cumulative amount of taxable wages paid increases during the taxable year. Taxable wages do not include the first 9 GEL of wages earned by an employee during a month at his/her principal place of employment. For taxable wages earned during the taxable year, a tax agent who is also the taxpayer's principal employer must withhold 12 percent of cumulative payments up to 200 GEL, 15 percent of cumulative payments from 200 to 350 GEL, 17 percent of cumulative payments from 350 to 600 GEL, and 20 percent of cumulative wage payments exceeding 600 GEL. (Article 42) (See the preceding example.)

However, a tax agent who is not the taxpayer's principal employer must withhold income taxes at 20 percent, the top marginal rate provided in article 42. (Article 88.4)

Dividends and income received from Georgian enterprises are subject to a 10 percent tax that is withheld at the source of payment. The income is not subject to further tax. (Articles 63 and 64)

Income received by non-residents generally is subject to the same withholding rates as income paid to residents. However, there are exceptions for certain types of income received by non-residents from a Georgian source, such as insurance payments and royalties that are subject to a withholding rate of 4 percent and 10 percent, respectively. (See article 64 for additional information.)

Who must submit an income tax return?

The following income tax payers must submit an income tax return prior to April 1st of the year following the reporting year:

- resident physical persons who received income that was not taxed at the source of payment in Georgia
- resident physical persons who have funds in accounts in foreign banks
- nonresident physical persons who have income from a Georgian source that is not taxed at the source of payment
- resident physical persons whose expenditures during the tax year exceed 25000 GEL. (Article 87.1)

Before the due date of an income tax return the taxpayer may apply to a tax body for an extension of time to submit the return. If the taxpayer pays the tax due at the time the extension is requested the time for submitting the tax return will be automatically extended for three months. (Article 232)

Taxpayers who cease their entrepreneurial activity in Georgia must submit an income tax return to the tax agency within 30 days of the cessation of activities. (Article 87.2)

A physical person who is not required to submit a return may, nevertheless, file a return in order to claim a refund of tax. (Article 87.4) Additionally, a nonresident taxpayer having no permanent establishment in Georgia who is taxed at the source of payment on certain types of income (insurance payments, payments for telecommunications or transport services, royalties paid by a Georgian enterprise, etc., see article 64.1c, d and e) may submit a return claiming a refund of tax. The taxpayer will be taxed as if this income was connected to a permanent establishment of the taxpayer in Georgia, and therefore will be entitled to deduct expenses allowed for permanent establishments. (See article 87.5 for additional information.)

Section V. Profit Tax

What is the profit tax?

The profit tax is imposed on profits (defined below) earned by Georgian and foreign enterprises (defined in Section III of this *Guide*). Although they may be considered separate enterprises (per article 12.1), branches and other units of enterprises do not pay profit tax independently, but rather aggregate their profit (or loss) with the main enterprise, which pays the total profit tax. (Article 44) As mentioned previously, individual enterprises are not considered enterprises per article 12.2, and are subject to income tax rather than profit tax.

What profits are subject to profit tax?

Georgian enterprises are taxed on profit, which is defined as gross income (determined under article 37) from economic activities less allowable deductions. For Georgian enterprises gross income includes all income, regardless of its source or place of payment, unless the income is specifically exempted by the Tax Code. (Article 45.1)

Foreign enterprises may also be subject to profit tax in Georgia. The extent a foreign enterprise is subject to profit tax depends on whether it conduct its activities through a permanent establishment (defined in Section III of this *Guide*).

1. Foreign enterprises that engage in economic activities through a permanent establishment in Georgia are subject to profit tax on gross income from Georgian sources (defined in Section IV of this *Guide*) that is connected to its permanent establishment. The gross income is reduced by deductions allowable under the Tax Code. (Article 45.2)
2. Foreign enterprises that do not engage in economic activities through a permanent establishment are subject to profit tax on gross income from Georgian sources. (Article 45.3) (See article 29.18 and the explanation of Georgian sources in Section IV of this *Guide*.) No deductions from this income are allowed, and the tax is withheld at the source of payment. (Articles 45.3 and 64) Note, however, that article 87.5 allows non-residents taxpayers (including foreign enterprises) who receive certain types of income (insurance payments, royalties, and other types of income provided in article 64.1c-e) to file a return and claim any deductions allowable as if this income was connected to a permanent establishment.

3. Foreign enterprises that receive income from the sale of certain types of property (listed below) are subject to profit tax on the gross income received from this property, less allowable deductions attributable to this income, if the income is from Georgian sources and is not connected to the foreign enterprise's permanent establishment. (Article 45.4) This provision applies only to the following types of income:
- gain from the sale of common stocks issued by a resident legal person
 - gain from the sale of copyrights, software, blueprints, movies, recordings, and other property listed in article 29.21
 - gain from the sale of immovable property that is located in Georgia and used in entrepreneurial activity and shares of certain enterprises, both of which are described in article 29.18k and l.

Is any income exempt from profit tax?

A number of types of income are wholly exempt from profit tax under article 47, including (but not limited to):

- profit of budgetary, charitable and religious organizations, except for profit from economic activities
- grants, membership fees and donations received by an organization
- profit of international organizations (not defined in the Tax Code), except for profit from economic activities.

What is the profit tax rate?

The profit tax rate is a flat 20 percent applied to taxable profits. (Article 46). However, certain types of income earned by foreign enterprises that are not connected to its permanent establishment are taxed at the withholding rates established under article 64, specifically:

- dividends—10 percent
- interest—10 percent
- insurance proceeds—4 percent
- telecommunication and transportation services, shipments, oil and gas transactions—4 percent
- royalties, management fees, and other forms of income—10 percent

In addition, certain oil and gas profits are taxed at 10 percent per article 273.30.

When are profit taxes due?

Enterprises and other taxpayers subject to profit tax are required to submit profit tax payments in three installments based on their profit tax liability of the previous year. The payments are due as follows:

- before May 15—30 percent of tax liability of previous year
- before August 15—30 percent of tax liability of previous year
- before November 15—40 percent of tax liability of previous year. (Article 89.1)

The installment payments will reduce the taxpayer's annual profit tax liability. (Article 89.4)

The payments due may be decreased if current year income is expected to be at least 30 percent less than income of the previous year. (See article 89.3 for additional information.) Taxpayers with no income from the previous year shall make profit tax payments based on actual profits of the previous quarter. (See article 89.2 for additional information.)

Who must submit a profit tax return?

Resident legal persons, as well as nonresident legal persons that have income from a Georgian source that is not taxed at the source of payment, must submit an income tax return prior to April 1st of the year following the reporting year to the tax agency at its place of registration. (Article 87.1)

Before the due date of a profit tax return the taxpayer may apply to a tax body for an extension of time to submit the return. If the taxpayer pays the tax due at the time the extension is requested the time for submitting the tax return will be automatically extended for three months. (Article 232)

Profit taxpayers that cease their entrepreneurial activity in Georgia must submit an income tax return to the tax agency within 30 days of the cessation of activities. (Article 87.2)

If a legal person decides to liquidate (see article 83) it must immediately notify the tax service in written form of its intent to liquidate. Within 15 days from the decision to liquidate the legal person shall file a profit tax return. (Article 87.3)

Section VI. Deductions and Accounting Provisions

What deductions from income are allowed under the Tax Code?

The Tax Code allows some expenses incurred during the course of economic activities to be deducted from gross income earned from such activities. (Article 48) Deductions are not allowed for expenses not connected to economic activities, personal expenses, and entertainment expenses (unless entertainment is the taxpayer's economic activity and the expenses are connected to this activity). (Article 49) Deductions are also not allowed for the acquisition of fixed assets and intangible assets, although such assets may be depreciated. In addition to limits on deductions provided in the Tax Code, norms issued by the Ministry of Finance also limit the extent of some deductions (for representation expenses, for example).

Rules and limitations relating to specific deductions are provided in Chapter 6, Deductions and Losses, of the Tax Code. A list of some specific deductions allowable in Chapter 6 is as follows:

- interest, subject to limitations (Article 50)
- doubtful debts (Article 51)
- insurance reserve funds (Article 52)
- scientific research (Article 53)
- depreciation of fixed assets (Article 54)
- repairs (Article 55)
- insurance payments (Article 56)
- surveying and extraction of resources (Article 57)
- depreciation of intangible assets (Article 58)
- taxes and fines, subject to limitations (Article 59)
- losses on the sale of property. (Article 60)

Explanations of deductions for interest, depreciation and repair expenses are provided below.

Interest expense (Article 50)

Subject to exceptions, interest expense on indebtedness is deductible. However, the deduction cannot exceed the expense calculated using an interest rate of 150 percent of the inter-bank credit auction rate set by the National Bank of Georgia. The

interest rate of the inter-bank credit auction on the day the loan originated must be used.

Depreciation of fixed assets (Article 54)

Article 54 provides a deduction for depreciation expenses for fixed assets (defined in article 29.19) that are used in an economic activity. A depreciation deduction is allowed to provide a reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in an economic activity. A depreciation deduction, however, is not allowed to reflect a reduction in market value.

The following assets are not depreciable, even if used in an economic activity:

- land
- art (including but not limited to paintings, jewelry and antiques);
- fixed assets transferred to a conservation regime, and
- any other assets that are not subject to wear and tear.

To compute depreciation expense for the tax year, fixed assets subject to depreciation (with exceptions described below) are grouped into asset categories based on the type of asset and depreciated using the rates provided in article 54.3 of the Tax Code. This method of depreciating assets is termed a “pooling” method because fixed assets are segregated into “pools” or groups”. Depreciation charges are determined for each group rather than for each individual asset within the group.

Groups of depreciable fixed assets and the depreciation percentage is provided in the following chart (from article 54.3).

Group Number	Types of Fixed Assets	Depreciation Percentage
1	Passenger automobiles, automobile and tractor equipment for use on roads, special instruments, miscellaneous accessories, computers, peripherals and equipment for data processing and storage	20
2	Automotive transport, trucks, buses, special automobiles and trailers; machines and equipment for all sectors of industry and the foundry industry, forging and pressing equipment, electronic equipment, construction equipment, agricultural machines and equipment, office furniture	15
3	Railway, sea, and river transport vehicles, power machines and equipment, turbine equipment, electric motors and diesel generators, electricity transmission and communication facilities, pipelines	8
4	Building and structures	7
5	Assets subject to depreciation not included in other groups	10

Note: Taxpayers are allowed to use an accelerated depreciation method for asset groups 2 and 3, provided the accelerated depreciation rates used are not more than 2 times the rates specified for these asset groups.

Buildings and structures are included in group 4 but are not aggregated into groups. (Article 54.5.) Rather, each building and structure is depreciated separately based on the rate provided for Group 4 assets.

Intangible assets are recorded as a separate asset group and are depreciated using the rate in effect for Group 5 assets. However:

- No depreciation deduction is allowed for goodwill and other intangible assets that do not have a limited life. See article 58 and instructions thereunder.
- The cost of intangible assets subject to depreciation does not include expenditures incurred for their acquisition or production that have already been deducted by the taxpayer.

With the exception of buildings and structures, asset groups (not individual assets) are depreciated using the balance of the asset group at the end of the tax year. The balance of the asset group is adjusted for purchases, sales and repairs, and is determined as follows:

Each Asset Group

Beginning asset balance 1 January (reflecting depreciation and adjustments made in prior years)

Plus:

Assets purchased (Article 81)

Excess repair expenses incurred (Article 55)

Less:

Assets sold (Article 54.8)

Residual value of the fixed assets transferred to the conservation regime

Ending balance of asset group prior to depreciation

Less:

Depreciation for current year

Ending balance of asset group, 31 December

The depreciation percentage is multiplied by the asset balance (described below) to determine the depreciation expense for each asset category. The sum of depreciation expenses for each asset category is the depreciation deduction allowed to the taxpayer.

If the amount received upon the sale of fixed assets from a group in the course of a tax year exceeds the asset balance of the group at the end of year the excess is included in gross income and the balance value of the group becomes equal to zero. Also, if the balance of the group at the end of the year is less than 100 GEL, the balance will be taken as a depreciation deduction in the current year. If all fixed assets of an asset group were sold or liquidated, the balance of the group at the end of the tax year is deducted from gross income. (Article 54)

Repair expenses (Article 55)

Article 55 provides a deduction for expenses incurred to repair fixed assets. Repairs which neither materially add to the value of the asset nor appreciably prolong its life, but rather keep it in an ordinarily efficient operating condition, are considered repairs for purposes of this article. Conversely, repairs that are in the nature of replacements, to the extent that they slow deterioration and appreciably prolong the life of the property, must be capitalized and depreciated in accordance with article 54.

The maximum deduction for repair expenses is 5 percent of the balance of each asset group (see above) at the end of the tax year, provided adequate documentation of the expenses is provided. Any repairs incurred that exceed 5 percent are added to the balance of the asset group and depreciated under article 54. (Article 55.1 and 2)

Can losses from one tax year be used to offset income in other tax years?

Physical persons who incur a loss in a tax year (deductions exceed gross income) that are not connected to employment may not deduct such loss from employment income, but may carryforward and deduct such loss from non-wage income for a period of up to five years after the tax year in which the net loss occurred. (Article 61.1)

Subject to article 86 (involving change of ownership), legal persons who incur a loss in a tax year may carry forward and deduct such loss from profit for a period of up to five years after the tax year in which the net loss occurred. (Article 61.2)

Are any tax credits provided in the Tax Code?

Deductions reduce gross income, resulting in less income subject to tax (taxable income). Tax credits, however, are subtracted directly from the tax liability. Article 65 provides a tax credit against Georgian taxes (subject to limitations) for income and profits taxes paid outside of Georgia. See article 65 for additional information.

What accounting provisions govern the recording and reporting of income and expenses?

Taxpayers are required to maintain accurate and current records of their income and expenses in accordance with accounting rules provided in Chapter 9 of the Tax Code. Unless required otherwise (for example, see article 68.6), a taxpayer may record income and expenses under either the cash basis method or accrual basis method of accounting. However, a taxpayer must use the same method for both accounting and tax purposes, and must use the same method throughout the tax year. (Article 68.3 and 4)

Cash basis method

Under the cash basis method of accounting a taxpayer records income upon its actual or constructive receipt, regardless of when the income was earned. Expenses are recorded when payment is made rather than when the expense was incurred. (Article 69) Refer to article 70 for additional rules on when income is recorded, and to article 71 for rules on when expenses are recorded.

Accrual basis method

Contrary to the cash basis method, the general rule under the accrual basis method of accounting requires a taxpayer to record income when it is earned, regardless of when it is actually or constructively received. Expenses are recorded when incurred rather than when the expense is paid. (Article 72) Refer to article 68.5 and 73 for additional rules on when income is recorded, and to article 74 for rules on when expenses are recorded.

What happens when there are differences between accounting and taxable income?

Differences between accounting income and taxable income result when accounting and tax rules differ. These differences can be classified as temporary (timing) differences or permanent differences. Temporary differences will ultimately reverse over a period of time. Differences in depreciation deductions that result from the use of different depreciation schedules are a common example of a temporary difference which, over the life of an asset, will reverse. Permanent differences, however, will never reverse. Fines and penalties that may be deductible for accounting purposes but not for tax purposes provide one example of a permanent difference. A reconciliation schedule is used to convert accounting income to taxable income.

Section VII. Value Added Tax (VAT)

What is a VAT?

A VAT is a tax on the consumption of goods, works and services. (See Section III of this *Guide* for definitions of these terms.) VAT applies to a wide range of domestically produced goods, works and services, regardless of whether used for personal or business use. (Article 90) VAT also applies to certain imported goods, works and services. (Article 96)

VAT is collected at every stage of production and distribution. An enterprise charges VAT on the supplies (sales) that it makes, and pays VAT to the suppliers of materials and providers of services it receives. The enterprise accounts to the State Tax Department of Georgia for the difference between the tax that it charges on goods and services it provides and the tax that it paid on the goods and services provided to it. (Article 90) This difference usually results in a net payment to the budget. However, in some circumstance this difference can result in a credit to the enterprise.

Who is subject to VAT?

Persons with annual *taxable turnover* (the total of all taxable transactions, per article 29.9) that equals or exceeds 24000 GEL per year are required to register with tax bodies and account for and pay VAT. (Article 92)

Persons with an annual turnover less than 24000 GEL per year may, but are not required, to register with tax bodies and account for and pay VAT. (Article 93) See articles 92 through 95 for additional information on registration, including mandatory registration, voluntary registration and termination of registration.

How is VAT calculated?

The supplies (sales) that an enterprise makes are known as the *outputs* of the enterprise. The VAT that the enterprise charges on the outputs is known as the *output tax*. The supplies (purchases) that an enterprise receives are known as the *inputs* of the enterprise. The VAT that the enterprise pays on the inputs is known as the *input tax*.

Under the normal VAT system the value added at each stage of production and processing is taxed until the final sale to the consumer. This is achieved by the intermediate enterprises, in an entrepreneurial chain, claiming a credit for the VAT that they pay on supplies made to them against the VAT that they charge to their customers. The VAT that an enterprise pays to the budget is the total of the output tax that charged on outputs during the month minus the total of the input tax paid on his inputs during the month. If the input tax exceeds the output tax the enterprise receives a credit for the excess. Thus the total VAT paid to the budget is the total of the net tax at each stage. The final consumer pays the tax.

Taxable transactions are to be recorded on a tax invoice as described in article 115. Refer to article 105 and subsequent articles for rules pertaining to the time taxable transactions are deemed to occur.

What are the VAT rates?

There are two rates of VAT that apply in Georgia:

- A 20 percent rate, referred to as the *standard rate*, applies to most goods and services. (Article 112)
- A 0 percent rate applies to exports as well as to certain services. (Article 112)

Zero-rating means that the goods, works or services are taxed at zero percent, and therefore no VAT is paid on the goods. Any VAT paid on goods, works and services used in their production or distribution can be reclaimed by the seller. Zero rating applies mainly to exports. (Articles 102 through 104)

Other goods, works and services are exempt from VAT. Generally these are goods and services in the welfare, social and financial sectors. (See article 101 for a list of all items exempt from VAT.). Exemption means that an enterprise does not charge output tax on the supplies of exempt goods and services, but it cannot claim a credit for the input tax that it pays on the inputs that it uses to produce the exempt outputs. Exemption applies to the rendering of financial services, as well as to newspapers, banknotes and coins (except collectors' pieces). Exempt supplies, however, are not completely free from VAT. (See article 114 for rules governing exempt supplies.)

Taxpayers subject to VAT should refer to transitional provisions in article 273 to determine the applicability and rate of VAT for certain products and services.

When are VAT tax and returns due?

VAT is calculated for each reporting period, which is a calendar month (Article 117). The VAT, along with a VAT return, is due on or prior to the 15th of the month following the reporting period. (Article 116) VAT on taxable imports is levied and collected by customs agencies in accordance with the customs legislation and the Tax Code. (Article 116.4.)

What information must be compiled, submitted and retained for inspection?

VAT registered taxpayers are controlled by Georgian tax bodies. They are required to submit a monthly return showing inputs, outputs, input tax and output tax. The return also shows the net VAT payable or the amount of the credit they are entitled to. (Article 117.1)

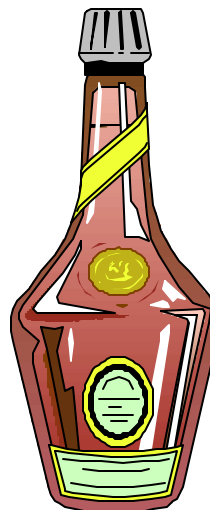
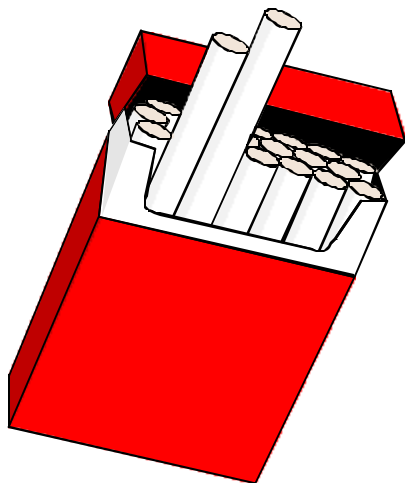
VAT taxpayers must maintain current substantiating records, books and accounts and make them available for audit at any reasonable time. They must be retained for 6 years as prescribed by the law.

Employees of tax bodies may conduct field audits of VAT taxpayers to check their records and accounts to ensure that the returns submitted are accurate. The field audits must be conducted in accordance with article 217 of the Tax Code and with the Law on Control of Entrepreneurial Activity. Tax bodies may conduct a field audit of a taxpayer one time per year provided prior written notice is given. (Article 217.3²) If approved by the head of a tax agency, or if legitimate grounds exist (described in article 217.3³), tax bodies can make unscheduled field audits. (Article 217.3³) However, the Law on Control of Entrepreneurial Activity requires tax bodies to seek and obtain a court order prior to conducting an unscheduled field audit. (See Articles 3.2 and 5.a Law on Control of Entrepreneurial Activity for additional information on court orders.)

Section VIII. Excise Tax

What is an excise tax?

An excise is an indirect tax levied on specified *excisable* goods that are produced in Georgia or imported into Georgia. (Article 122) Excisable goods are listed in Article 130 (reproduced below).



Who is subject to excise taxes?

Unless exempted, all physical and legal persons (including branches and other structural units of entities listed in article 12.1.c) who produce excisable goods on the territory of Georgia, or who import excisable goods, are subject to excise taxes. For those excisable goods produced or manufactured on the territory of Georgia from raw materials supplied by customers, the producer of the goods is subject to excise taxes. (Articles 123 and 124)

What goods are subject to excise and what are the excise rates?

Excisable goods and their applicable excise rates are provided in Article 130. Examples of excisable goods include:

- wine, beer and liquors (whiskey, vodka, etc.)
- cigarettes and other tobacco products
- passenger automobiles and tires
- salmon, caviar and other seafood products
- natural gas, oils, oil distillates, and other products produced from oil and bituminous minerals.

Exports of excisable goods are taxed at a zero rate. (Article 127)

Are any excisable goods exempt from excise tax?

In certain circumstances some goods included in the table above may be exempt from excise. Examples of exempt goods include:

- alcoholic beverages produced by an individual for personal consumption
- the import of two liters of alcoholic beverages and two hundred cigarettes by a physical person for personal consumption and, in the case of a person entering Georgia by automobile, the gasoline in the petrol tank
- the transit and temporary import of excisable goods into the customs territory of Georgia;

See Article 128 for additional examples and requirements.

In addition, taxpayers subject to excise should refer to transitional provisions in article 273 to determine the applicability and excise rates for certain products.

How is the excise tax calculated?

The excise tax is calculated by applying the value or volume of the excisable goods in the *taxable transaction* (transaction subject to excise tax) by the applicable rate given in the table above.

- The taxable transaction for products produced in Georgia is considered to occur at the earlier of:
 - 90 days from delivery (transfer) of goods or
 - the moment of payment if payment was made within 90 days from the delivery (transfer) of goods. (Article 126.1)
- For imports of excisable goods, the taxable transaction is considered to occur at the time the goods are imported.
- For goods subject to excise stamping, the taxable transaction is considered to occur at the time the goods are delivered.

(See article 126 for additional information concerning the timing of taxable transactions.)

For goods produced on the territory of Georgia the amount of the taxable transaction is the payment received or to be received by the taxpayer from the customer or any other person, excluding the amount of the excise tax and VAT. This amount cannot be less than the wholesale market price excluding the excise tax and VAT. (Article 125)

- For goods sold at the retail level, the amount of the taxable transaction is the market price of the goods at the wholesale level not including the amount of the excise tax and VAT.

- For alcohol products, the amount of the taxable transaction is based on the volume of imported and/or delivered alcoholic beverages.

For imported goods, the amount of the taxable transaction is the customs value of the goods determined in accordance with the customs legislation of Georgia (but not less than the wholesale market price, excluding the excise and VAT), plus the amount of duties and taxes payable on the import of the goods into Georgia (except for the excise tax and VAT). (See article 125 for additional information concerning taxable transactions.)

Purchasers of excisable raw materials who uses the good for the production of other excisable goods for future supply are allowed a tax credit (provided adequate documentation is provided) for the amount of the excise paid on the purchase of the raw material, or a refund of the excise. A similar credit or refund procedure is applied to the goods received by the producer from the importer for producing excisable goods. The refund is to be paid to the taxpayer within 15 days after the filing of the documents with the tax agency. (Article 129)

When are excise taxes due?

Generally, producers of excisable products (not importers) must pay excise tax on or before the 10th day of the month following the month when the taxable transaction occurred.

Customs agencies collect excise tax from importers of excisable products according to procedures established for customs duties. (Article 131)

Importers and producers of excisable products in Georgia who must affix excise stamps to their products are required to pay excise taxes when they purchase excise stamps. (Article 131) See article 134 for a description of goods that must have excise stamps, sanctions applicable to unstamped goods, and imputed income that results from lost or destroyed stamps.

The excise paid on imported goods that are later exported is to be refunded by Customs within 15 days of the date of exportation. (Article 133)

When must excise returns be submitted?

An excise taxpayer must submit a return by the 10th of the month following the month in which excise transactions occurred. The return must indicate the taxable transactions that were carried out. (Article 132)

An excise taxpayer must include an application for an excise tax credit in the excise return. A person who is not an excise taxpayer, but who is entitled to a credit, may submit an application for the receipt of compensation, which may be submitted at any time during one year from the time the right to compensation arose. (Article 132)

Any taxpayer who sells an excisable goods (described below) is required to issue a tax invoice (or simplified form) to the receiver of the goods. (Article 135)

Section IX. Social Tax

What are social taxes?

Social taxes (which includes both social and employment taxes) are imposed to provide funds for social programs such as pensions and unemployment compensation. The tax is imposed on wages and other forms of compensation paid to employees, and also on income earned by physical person entrepreneurs from their economic activities. (Article 184)

Who is subject to social taxes?

The following are subject to social taxes:

- physical person entrepreneurs and legal persons who make payments of wages (in monetary or other forms) to physical persons working as employees in Georgia (Article 185.a)
- physical person entrepreneurs and legal persons, who in the course of economic activity, make payments to physical persons who render services in Georgia, on the basis of contract or without a contract (Article 185.b)
- physical persons receiving remuneration from employment or the performance of services (Article 185.c)
- physical person entrepreneurs who conduct entrepreneurial activity in Georgia (Article 185.d)
- physical persons who perform non-entrepreneurial activity in Georgia according to Article 1.2 of Law of Georgia on Entrepreneurs. This includes lawyers, doctors, notaries and other professions. (Article 185.e)
- branches and other separate structural units entities stipulated in article 12.1.c. (Article 185.f)

What income is subject to social tax?

Generally, income subject to social tax includes all income, unless specifically exempted, received in the form of wages (both monetary and non-monetary) as determined under article 38. Income received by individuals who perform services (with or without a contract), as well as by entrepreneurs, is also subject to social tax. (Article 186)

Income specifically exempted from social tax is listed in article 187.

What are the social tax rates?

That table below provides the social tax rates for employers, entrepreneurs and employees.

Social Tax Rates

Taxpayers (Article 185)	Object of Taxation (Article 186)	Social Taxes Paid by Employers and Entrepreneurs		Taxes paid by employ- ee
		Social Tax Article 188	Employ- ment Tax Art. 188	Social Security Tax Art. 188
Physical persons entrepreneurs and legal persons who pay wages to physical person employees (Article 185.a)	Articles 186.1, 38	27%, not less than 16 GEL per month	1%	
Physical persons entrepreneurs and legal persons (including branches and other structural units of entities listed in article 12.1.c) who pay physical persons for services on or without a contract basis (Article 185.b)				
Physical persons who receive remuneration as employees or on a contract basis (Article 185.c)	Articles 186.1 and .2			1%
Physical persons entrepreneurs (Article 185.d)	Articles 186.4	27%, not less than 16 GEL per month	1%	
Physical persons who carry out non-entrepreneurial economic activities in Georgia per Law on Entrepreneurs (lawyers, doctors, notaries, etc.) (Article 185.e)	Articles 185.4, 1.2 of Law On Entrepre- neurs	27%, not less than 16 GEL per month	1%	

For public organizations of disabled persons as well as enterprises that have a workforce comprised 70 percent or more of disabled persons and pensioners, the 27 percent tax rate indicated above is reduced to 10 percent. (Article 188.2)

When are social taxes and social tax returns due?

Social taxes and returns are due as follows:

- Employers paying wages to employees or to individuals performing services, (see article 185.a and b) are to remit social taxes to the tax agency at the time wages are paid. If payments are made through banks the employer shall present payment instructions to the bank to withhold and remit the social taxes to tax agencies. Without such instructions the bank shall not release the funds. The employee's social tax is withheld and remitted along with the employer's social tax payment. (Article 189.1 and 2) Employers are required to submit their social returns before the 15th day following the reporting month. (Article 189.4)
- Physical person entrepreneurs and physical persons who carry out economic activities in Georgia that are classified as non-entrepreneurial under the Law on Entrepreneurs (lawyers, doctors, notaries, etc.) are to remit social taxes along with their income taxes. (See article 89 as well as Section IV of this *Guide* for income tax due dates.) The social tax return is to be submitted along with their income tax return. (Article 189.3)

Section X. Other National Taxes

Other national taxes are described briefly in this section.

Property Taxes

Who is subject to property taxes?

The following are subject to property taxes:

- a. Physical persons (unless exempt) who own taxable objects, defined as immovable property (buildings and structures or their parts) located on the urban territory of Georgia, as well as immovable property (excluding land) located on non-urban territory if the property is used for economic activities. (Articles 136 and 137)

What is the property tax rate for physical persons and when is it due?

The property tax is 0.1 percent of the inventory value of the building or structure. (Articles 136 and 137) The tax is due in two equal payments, the first due prior to June 15th and the second due prior to October 15th of the tax year. (Article 139)

- b. Taxpayers other than physical persons, specifically:

- Georgian enterprises
- branch offices and other similar subsidiary enterprises that have an independent balance sheet and settlement account;
- foreign enterprises engaged in economic activity in Georgia through permanent establishments
- organizations whose property or part of property is used for economic activity. (Articles 140)

What property is subject to the property tax?

Fixed assets, installed equipment, uncompleted capital investment, intangible assets that are listed on the balance sheet of the enterprise, as well as such property listed on the balance sheet of an organization and utilized for economic activity are, unless exempted, subject to property tax. For foreign enterprises, only property connected with its permanent establishment is subject to property tax. (Article 141)

What is the property tax rate and when is it due?

The property tax is 1 percent of the value of the property. (Articles 142 and 144) The tax is due in two equal payments, the first due prior to June 15th and the second due prior to October 15th of the tax year. (Article 139) The tax is due in four installments due before the 15th day of the second month after the end of a quarter. (Article 144) For example, the property tax for the first quarter is due before May 15th.

Tax on Land

Who is subject to tax on land?

Physical and legal persons who are owners or users of land plots, including land used for agricultural and non-agricultural purposes, are subject to tax on land, unless exempted under article 158. (Article 146)

If the value of agricultural products supplied within a tax year does not exceed 100000 GEL physical and legal persons engaged in agricultural businesses are subject to only a land tax rather than to all taxes provided by legislation of Georgia for agricultural businesses. This provision is in effect until 1 January 2007. (Article 273.46)

What is the rate of the tax on land and how is it calculated?

The tax on land varies according to the quality and location of land. It is not based on the economic results of the taxpayer. (Article 148)

- The base tax rates for agricultural land are provided in article 150. They are set on a per hectare basis, and may be increased depending on the location of the land. (Article 150)
- The base rate of the tax on non-agricultural land is 0.24 GEL per one square meter of land. (Article 154)

When is the tax on land due?

Taxes on agricultural land are due on or prior to November 1 of the reporting year. (Article 152.3)

Taxes on non-agricultural land are due in equal parts prior to August 15 and prior to November 15 of the reporting year. (Article 157)

Tax on the Ownership of Motor Vehicles

Who is subject to the tax on the ownership of motor vehicles?

Unless exempted under article 163, physical and legal persons who own a vehicle specified in Chapter 87 (articles 8702 - 8704) of the Code System for Foreign Economic Activity are subject to the tax on the ownership of motor vehicles. (Articles 159 and 160) A tax (described later in this section) is also imposed on transfers of motor vehicles.

What is the tax rate on the ownership of motor vehicles?

The tax rate is based on the type, tonnage, and capacity of the vehicle. Article 161 provides rates for the following vehicles.

Type of vehicle	Tax rate in GEL
Passenger cars	5
Trucks up to 3 ton of load-carrying capacity (inclusive)	10
Trucks with 3-10 ton of load-carrying capacity (inclusive)	50
Trucks with 10-20 ton of load-carrying capacity (inclusive)	80
Trucks over 20 tons of load-carrying capacity	100
Buses (up to 12 seats)	50
Buses (13-30 seats)	70
Buses (over 30 seats)	100

When is the tax on the ownership of motor vehicles due?

The tax is payable to the state road fund at the time of registration, re-registration (if the previous owner of the motor vehicle has not paid the tax in the given year) or at the time the annual technical inspection of the motor vehicle is performed (Article 162).

Tax on the Transfer of Property

Taxes are imposed on the transfers of immovable property located in Georgia, inheritances and gifts, and transfers of motor vehicles.

- Transfers of Immovable Property Located in Georgia

Who is subject to the tax on the transfer of property?

Unless exempted under article 166, the transferee (recipient) of immovable property located in Georgia is subject to tax on the transfer of property. (Article 164) Transfers of title, as well as certain leases of immovable property, are taxable. However, the mortgaging of immovable property is not taxable. (Article 165.2)

What is the rate of tax on transfers of immovable property?

The tax rate is 2 percent of the payment transferred, directly or indirectly, for the property (including assumed indebtedness), but not less than the market price of the property. (Articles 167 and 168)

When is the tax due?

The tax is due prior to the registration of the documents transferring the property. If the property is not registered, the tax is due at the time the property is transferred. (Article 169)

- Inheritance and Gifts

Who is subject to the tax on inheritances and gifts?

A person who receives property from a physical person (the transferor) through inheritance or gift is subject to tax on the property transferred if:

- the physical person receiving the property is a resident at the moment of receiving the property, or is a nonresident legal person with 50 percent or more of its shares owned directly or indirectly by residents
- the transferor is a resident at the time of gift or death, or
- the property is immovable property that is located in Georgia. (Articles 170 and 171)

Certain property is exempt from inheritance or gift tax, including:

- property inherited by first and second heirs of the deceased, along with gifts received by individuals who would be first and second heirs of the donor of the gifted property
- property with a market value of 50000 GEL or less when received by inheritance, and
- property with a market value of 1000 GEL or less when received by gift.

(See article 172 for additional information.)

What is the rate of tax on inheritances and gifts?

The tax rate is 30 percent (for persons other than first or second heirs), and is applied to the average market value of the property at the moment of transfer, reduced by amounts specified in article 173. Credits against the tax may be applicable. (Articles 176 and 177)

When is the tax due?

For property received by inheritance, the tax is due not later than six months from receipt of documents transferring title. For property received by gift, the tax is due within one month from the time the gift is transferred. (Article 175)

- Tax on Transfers of Motor Vehicles

Who is subject to the tax on transfers of motor vehicles?

Unless exempted under article 180, physical and legal persons who receive (the transferee) a vehicle specified in Chapter 87 (articles 8702 - 8704) of the Code System for Foreign Economic Activity (cars, trucks and buses, motorcycles) are subject to the tax on the transfer of the motor vehicle. Receipt of a motor vehicle by a proxy agreement that allows the transferee to use and dispose of the vehicle is considered a transfer and is subject to transfer tax. (Article 178)

What is the rate of tax on transfers of motor vehicles?

The tax rate is based on the engine size of the vehicle and the year it was manufactured. If the year of manufacture is not known and no evidence of this date is provided the vehicle will be taxed according to the rates for vehicles of 5 to 10 years. (Article 181.2) The following table from article 181 provides the tax rates.

N	Type of Motor Vehicle	Age of Motor Vehicle	Capacity of engine Tax amount per 1 cm. (in GEL)
1	Passenger automobiles	up to 2 years	0.10
		2-5 years	0.08
		5-10 years	0.07
		10-15 years	0.05
		more than 15 years	0.04
2	Trucks and Buses	up to 5 years	0.08
		5-10 years	0.07
		10-15 years	0.04
		more than 15 years	0.02
3	Motorcycles	up to 5 years	0.07
		5-10 years	0.05
		more than 10 years	0.02

When is the tax due?

The tax is due prior to registration of the transferred vehicle. For vehicles transferred only by proxy agreement the tax is due prior to the time the motor vehicle documents are notarized. Registration or notarization is prohibited until the tax has been paid. (Article 183)

Tax on the Use of Natural Resources

Who is subject to the tax on the use of natural resources?

Physical and legal persons (including branches and other structural units of entities listed in article 12.1.c) engaged in any activity that requires a license for the use of natural resources (with the exception of land) owned by the State, as well as persons engaged in timber extraction, are subject to this tax. (Articles 191 and 192)

What is the tax rate for the use of natural resources?

The tax is imposed on the volume of natural resources (such as minerals and timber) extracted. (See article 193 for a description of natural resources subject to this tax.) The tax rates are based on the resources extracted. See article 194 for the rates applicable to the various resources subject to tax. Note that concessions and exemptions are provided in article 196, and that a 70 percent reduction in the tax rate is provided for certain activities. (Article 196.2)

When is the tax due?

In general, the tax for the use of natural resources is due before the 15th of the month following the reporting month. However, different due dates are imposed for the use of certain resources, such as timber (tax due when timber transported from the forest) and water for agriculture (due by December 1st). See article 195 for due dates established for other natural resources.

Tax on Polluting the Environment with Harmful Substances

Who is subject to the pollution tax?

Physical and legal persons (including branches and other structural units of entities listed in article 12.1.c) engaged in any activity listed in categories one through four of the Law of Georgia on Environmental Permits (dated October 15, 1996) who:

- pollute the environment from fixed sources, or
 - import or produce gasoline, diesel fuel, kerosene, natural gas (except natural gas used as a raw material for production of goods) or liquid gas
- are subject to the pollution tax. (Article 197) The four environmental categories provided in the Law on Environmental Permits are based on the scope, importance and impact the activity may have on the environment.

What is the pollution tax rate?

The tax rate is based on the pollutant emitted and whether it emitted into the atmosphere or the water (either directly or through sewers and storm drains). For other items the tax is based on the amount imported or produced. However, imported or goods that are later exported are exempt from this tax. (Article 198)

The tax rates for various pollutants are provided in tables in article 200. These

rates apply to pollutants emitted within limits described in article 199, with references to environmental laws. In addition to the pollution tax, pollutants emitted in excess of established limits are subject to a fine equal to five times the tax rate for pollution within the limit. (Article 200.5) The tax rates are also affected by tax coefficients based on geographic region. (Article 201)

When is the tax due?

Taxpayers that pollute the environment from fixed sources are required to submit a tax return certified by the Ministry of Environment and Natural Resource Protection to the tax agency and pay the tax by the 15th day of the month following the reporting quarter. Taxpayers who produce or supply gasoline, diesel, kerosene, natural gas and liquid gas also must pay the pollution tax and submit a tax return by the 15th day of the month following the reporting month (Article 202.1)

Taxpayers who import any products subject to the pollution tax must pay the tax before the Customs Agency clears the products. Customs agencies are to clear the products only on the receipt issued by the tax agency evidencing that the tax has been paid. (Article 202.2)

Tax on Motor Vehicles that enter the Territory of Georgia and on Overloading

Who is subject to these taxes?

These two taxes apply to:

1. possessors or drivers of vehicles registered outside of Georgia that enter the territory of Georgia, and
2. possessors or drivers of trucks registered in Georgia and are in transit in Georgia. (Articles 203 and 204)

What are the tax rates?

The tax rates for vehicles entering the territory of Georgia are based on the type of vehicle and its load capacity. The rates are provided in the following table from article 205.

Types of Vehicles	Tax rates in GEL
Cars	60
Buses (up to 13 seats)	115
Buses (13-30 seats)	230
Buses (over 30 seats)	380
Trucks and other vehicles up to 3 tons of capacity	230
Trucks - 3-10 tons of capacity	380
Trucks – 10-20 tons of capacity	480
Trucks – 20-40 tons of capacity	650
Trucks – over 40 tons of capacity	880

In general, possessors of trucks whose loads exceed the load-carrying capacity of the vehicle must pay tax, at the following rates, for each ton of excess load

- trucks with a maximum load capacity of up to 20 tons--10 percent of the tax determined by article 205.1 (see table above)
- trucks with a load capacity in excess of 20 tons--5 percent of the tax determined by article 205.1 (see table above).

An additional tax is also imposed on possessors of vehicles. (Article 205.3 and 205.4). Tax concessions and exemptions are provided in article 207.

Note: Taxpayers should be aware of a discrepancy between article 205, which states that possessors (not drivers) of vehicles are subject to tax on overloading, while article 203 states that this tax applies to possessors or drivers. It is unclear whether article 205 is intended to apply to both possessors and drivers.

When are the taxes due?

The tax on motor vehicles entering the territory of Georgia is payable to the State Road Fund when the vehicle crosses the border of Georgia. The tax for overloading is payable to the State Road Fund at places selected by the Road Department. It is forbidden to drive a motor vehicle on the territory of Georgia without documents proving the payment of tax. (Article 206)

Section XI. Sanctions, Fines and Penalties

What sanctions, fines and penalties may be imposed for violations of the Tax Code?

The Tax Code of Georgia provides sanctions, fines and penalties that are to be imposed for violations described in the Tax Code. While there is some ambiguity regarding the distinction between the three types of penalties, *fines* are generally defined as cumulative penalties that are calculated on a periodic (often daily) basis (e.g., the fine imposed by Article 252.1 of 0.15 percent per day on overdue tax payments), whereas *penalties* are imposed once per offense (e.g., the penalty imposed in Article 253.1 of 5 percent for late submission of a business declaration, regardless of the date it is submitted). *Sanctions* appear to include both fines and penalties, but generally are more synonymous to penalties. The characterization is important because Article 242 of the Code requires that payments be made in the following order:

1. tax amount
2. amount of penalties assessed as financial sanctions, and
3. assessed amount of fine.

Sanctions, fines and penalties imposed by Articles 223 and 252 through 254 apply to all forms of taxes, including but not limited to profit, income, VAT and excise taxes. Other penalties and fines mentioned in the table below apply to specific types of taxes (such as VAT) or to specific types of transactions (such as banking transactions). Other laws, including the Administrative Offenses Code and the Criminal Code, also impose penalties for tax violations. Refer to these laws for a description of the penalties that may be imposed.

What sanctions, penalties and fines may be imposed for violations of the Tax Code?

A description of some sanctions, penalties and fines imposed by the Tax Code are summarized in the table below.

Sanctions, Penalties and Fines Imposed by the Tax Code

Article	Violation	Rate or Amount	Rate applied to:	Maximum amount of fine or penalty
89.3	Penalty imposed when expected reduction in income not confirmed by annual actual income	See article 252	See article 252. Penalty is applied for the period from the date set for current payments to the date set for submitting the tax return.	None stated
121.2.a	Sanction for transaction without VAT registration	100%	Amount of VAT payable to budget on transaction	None stated
121.2.b	Sanction for failing to record taxable turnover and VAT in the VAT invoice, incorrect recording in VAT invoice, or non-issuance or incomplete VAT invoice that does not allow to identify the purchaser	50%	Amount of VAT per the invoice or fulfilled transaction	None stated
121.2b	Sanction for incorrect amount of taxable turnover and VAT amount in tax invoice if the budget revenues are not reduced	20%	Amount of VAT due	None stated
121.2c	Sanction imposed for different indicators of sums in two copies of one invoice	100%	VAT attributable to the highest indicator between these two copies	None stated
200.4	Fine imposed for each ton of polluted substances emitted into the air or dumped into water over set limits	Five times	The tax rate for pollution within the set limits	None stated

223.5	Penalty imposed for the transportation of assets or goods purchased or supplied for economic activity without registration bill of lading (or customs declaration in case of import)	100%	Assets and goods without registration bill of lading (or customs declaration in case of import), penalty in the amount of market price (without VAT and for excise payers – without excise). Assets and goods subject to violation may be held until the penalty is paid.	None stated
223.6	Penalty imposed for carrying out activity without being registered by the tax bodies	100% of tax due	Tax due to budget (paid in addition to tax due)	None stated
252.1	Fine (interest) on overdue tax payment	0.15% per day overdue	Amount of overdue tax	None stated
252.1	Penalty imposed on taxpayers who spend money from the accounts not registered in the tax service for other purposes while having tax arrears	30%, 50% for repeat violations	Tax arrears or money spent for other purposes	None stated. For repeat violations within one year after applying the above-mentioned sanction the fine increases to 50 percent.
253.1	Penalty for late submission of tax return and accounting forms stipulated by legislation	5%	Amount of tax required to be shown on return for each whole or partial month the return or form is not submitted (If the amount required to be shown on return is zero there is no penalty for late submission. However, a penalty may be imposed under the Administrative Offenses Code.)	25% of the tax required to be shown on the return (but limited to not more than 200 GEL per month) In the case of late filing and late payment the total penalty cannot exceed 1000 GEL per month.

254	<p>Sanction imposed for understating the amount of tax due in returns and reports.</p> <p>The 25% penalty applies to understatements less than 5000 GEL.</p> <p>The 50% penalty applies to understatements from 5000 to 10000 GEL.</p> <p>The 100% penalty applies to understatements above 10000 GEL.</p> <p>The 50% and 100% penalties apply only if the understatement exceeds the tax declared by 25% or more.</p>	25%, 50% or 100% of understatement	Amount of understatement	Penalty does not apply if the understatement was due to incorrect written directions issued by tax bodies.
255.a	<p>Penalty imposed on banks and other institutions for failing to meet the requirements of section 233.a (to open accounts for physical and legal persons) and 233.b (to execute payment or collection orders)</p>	10%	Amount of debit transactions effected on settlement and other accounts of physical and legal persons	None stated
255.b	<p>Fine imposed on banks and other institutions for failing to observe the order priority for debiting from settlement or other account of physical persons the amounts of taxes to the budget and for delaying the transfer to the budget of amounts debited from the accounts of their taxpayer customers, and for returning to the taxpayer not executed payment orders.</p> <p>(Taxpayers do not pay fine.)</p>	0.15% per day (as set forth in Article 252)	Amount not submitted to the Treasury	None stated

273.24	Penalty imposed on individual entrepreneurs conducting unregistered activities to avoid payment of presumptive taxes	12 times	The amount of the presumptive tax	None stated
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Is interest paid on overpayments of tax?

Interest is to be paid to the taxpayers who make overpayments of tax based on incorrect assessments by tax agencies. (Interest is not paid on voluntary overpayments or advances.) The rate of interest is equal to the quarterly interest rate charged by the National Bank of Georgia for borrowing from the government. (See article 252.2 for additional information.)

May tax arrears, including fines and penalties, ever be extinguished?

The Tax Code does not provide allow the Tax Department to waive penalties and fines upon a showing of reasonable cause. However, tax arrears may be extinguished by Order of the Minister of Tax Revenues, based on a determination from the Ministry of Finance if:

- the arrears are considered *bad debts* (uncollectible, see article 29.28) and
- the arrears are extinguished under article 33 (applicable to physical persons who are deceased, missing or deemed incompetent) or other acts of tax legislation.

Note: Tax arrears, along with fines and penalties, may be imposed on taxpayer whose tax arrears were written off if the taxpayer continues the activity that generated the tax arrears or subsequently obtains income that was previously extinguished. (Article 250)

Section XII. Appeal Procedures



How and when can a taxpayer appeal a tax assessment?

A taxpayer has the right to appeal a tax assessment or a request a refund that has been denied by the Tax Department. (See Articles 221(d) and 256 and Decree #180 issued by the Ministry of Finance on July 13, 1998) The Appeals Department is empowered to hear appeals concerning all taxes provided in the Tax Code of Georgia, including but not limited to VAT, excise, income, profit and social taxes.

An appeal must be filed within 60 days from receipt of the Notice of Assessment. (Article 256) The 60-day period begins to run the day following receipt of the Notice of Assessment and ends on the day the Tax Office (not the Appeals Department) receives the appeal. Appeals filed after this period are considered untimely and will be rejected by the Appeals Department unless there are reasonable grounds for the delay in filing. The Appeals Department shall notify the taxpayer of any appeals that are rejected as untimely.

The taxpayer is permitted to file one appeal for each tax assessment rather than one appeal for each tax or issue contested in the Notice of Assessment.

All appeals must be in writing and made on the Notice of Assessment or attachments. The taxpayer's appeal must state, in sufficient detail and clarity, all facts pertaining to the appeal, the portion of the assessment that is being appealed, and the arguments the taxpayer advances in support of the appeal. Appeals containing vague language or specious arguments such as "incorrect" or "bad law" may result in the appeal being returned to the taxpayer without further consideration. The taxpayer must, if not done previously, submit all supporting documents relevant to the appeal.

Throughout the appeals process any portion of the assessment that remains unpaid, along with any applicable fines and penalties, remains due and payable. During the appeals process the head of the tax agency may suspend enforcement of the unpaid tax and fines and penalties. (Article 243) Nonetheless, fines and penalties will continue to accrue during this period on the unpaid amount.

Throughout both the administrative and judicial appeals process the taxpayer bears the burden of proving that the tax assessed is incorrect. (Article 257)

A taxpayer who prevails on appeal is entitled to receive a refund of a tax that is held to be incorrect, along with interest on the refunded amount. (Articles 243 and 252.) A taxpayer who does not prevail on appeal may pursue further administrative appeals as explained below or file an action in court. If the taxpayer exhausts all appeal options and is unsuccessful in overturning the assessment, the taxpayer will be required to pay the assessed tax, along with any applicable fines and penalties. The Collections Department of the Tax Department may enforce collection of the tax in the manners prescribed by the Tax Code. (Articles 243 and 252)

Where can a taxpayer file an appeal?

A taxpayer who disagrees with a tax assessment or a decision of a tax agency may challenge the assessment in any manner provided in article 256 of the Tax Code. In all cases the taxpayer's initial appeal must be filed within 60 days of receipt of the Notice of Assessment (or decision of the tax agency). A decision on the appeal is to be issued by the tax agency within 30 days from the date the appeal was received. Further appeals, as described below, may also be filed within the prescribed time limits.

Under legislation that exists at the time this manual was drafted (December 1, 2001), taxpayers may appeal an assessment through administrative and/or judicial bodies as follows.

Option 1

Taxpayers may appeal the assessment to the tax office that issued the Notice of Assessment. An appeal can be made to this office regardless of whether the taxpayer has paid the amount in dispute. A decision must be entered within 30 days of receipt of the appeal.

Taxpayers who do not prevail at the first level may appeal the decision to a higher tax agency. Each subsequent appeal must be filed after the expiration of the 20-day period for rendering the decision or within 10 days after the taxpayer receives notice of the previous decision. The higher tax agency shall notify the taxpayer of its decision within 20 days.

The decision of the higher tax agency may be appealed to the Appeals Department at Tax Department Headquarters, which shall notify the taxpayer of its decision within 20 days.

The decision of the higher tax agency may be appealed to the Tax Revenue Ministry of Georgia, which shall notify the taxpayer of its decision within 20 days.

Taxpayers are entitled to appeal the decision of the Tax Revenue Ministry of Georgia in District Court under the procedure established by legislation. (See 3, below.)

Option 2

If a taxpayer pays the assessment, the taxpayer may appeal the assessment directly to the Appeals Department at the Tax Revenue Ministry. The decision of the Appeals Department at the Tax Revenue Ministry may be appealed in District Court.

Option 3

If a taxpayer pays the assessment, the taxpayer may bypass the administrative appeals procedures and file an action for a refund in District Court by filing a written application in accordance with articles 177 and 178 of the Civil Procedure Code. The party filing the court action (in most instances this will be the taxpayer) must file the action in accordance with articles contained in Chapter 2 of the Civil Procedure Code.

There is no statute of limitations in which the party must file the court action, as long as it is within six years from the end of the tax period at issue.

Section XIII. Taxpayer Rights and Obligations

What are taxpayer's rights?

Under the Tax Code taxpayers have the right:

- to provide tax bodies with documents proving their rights to tax concessions
- to examine records of audits that are conducted
- to present explanations to the tax agencies regarding the acts of audits that are carried out, as well as his calculation and payment of taxes
- to appeal decisions of tax agencies by procedure stipulated by laws
- to become familiar with the tax legislation in force through tax agencies or by other means
- to refuse to present any documents connected with determination of a taxable object, calculation and payment of taxes to law enforcement or other controlling agencies other than cases when such power has been vested on above agencies according to the Tax Code. (Article 221)

Taxpayers should be aware that no statement provided by the tax agency to a taxpayer is binding with respect to the tax agency or the taxpayer unless it is delivered to the taxpayer in writing. (Article 224). Furthermore, any notice or other documents sent by the tax agency to a taxpayer must be in writing, signed by a head or an authorized official (noting his/her full name) and be certified by stamp. The original of the document must be delivered to the taxpayer. The document will be deemed properly served if it is delivered to the address of the taxpayer by registered mail or if it is personally served upon the taxpayer. (Article 225)

Tax agencies are obligated to maintain the confidentiality of all taxpayer information unless its distribution is specifically authorized under article 268. See articles 265 and 266 for a list of rights and obligations of tax agencies.

What are the obligations of "tax agents"?

Tax agents are physical or legal persons who, under the Tax Code or other tax legislation, are required to calculate tax liability, withhold from a taxpayer, and transfer a tax to the respective budget. Generally, tax agents have the same rights and obligations of taxpayers. (Article 23)

Under the Tax Code tax agents are obligated:

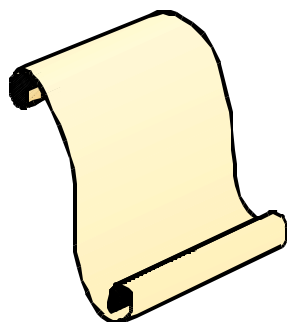
- to correctly and timely calculate, withhold from a taxpayer, and pay to the budget the appropriate taxes
- to keep records of income paid to every taxpayer and of taxes withheld and transferred to the budget

- to forward to tax agencies the documents required for controlling the accuracy of calculation, withholding, and payment of taxes
- to perform other duties established by tax legislation. (Article 23)

In addition, taxpayers (other than taxpayers who only receives wage income) who are required to pay tax or file a return are required to register at their local tax office and obtain a Taxpayer Identification Number (TIN). (Article 219) (At the time this *Guide* was written changes to simplify taxpayer registration procedures were being drafted. Taxpayers who believe they may be required to register should contact their local tax office for additional information.

Are there additional taxpayer rights and obligations that are not in the Tax Code?

The Minister of Tax Revenues signed a Taxpayer Charter that provides additional taxpayer rights and obligations. The text of the draft Taxpayer Charter is provided below.



TAXPAYER CHARTER

THIS TAXPAYER CHARTER ESTABLISHES RIGHTS AND DUTIES OF TAXPAYERS AND IS AIMED AT IMPROVING RELATIONS BETWEEN TAXPAYERS AND THE TAX SERVICE IN THE FULFILLMENT OF TAXPAYER OBLIGATIONS.

I. We, the Tax Service of Georgia, promise that:

1. We shall follow norms of ethics and act courteously and honestly;
2. Our attitude towards you and our decisions shall be professional, fair and impartial;
3. We shall keep information about you confidential and use it only in cases provided under the Law;
4. We shall be strict to those avoiding taxes;
5. We shall require payment of taxes only in the amount and by the procedure under the Law;
6. We shall treat all taxpayers equally;
7. We shall assist you in obtaining proper information on tax calculation and payment procedures, and in clarifying of your rights and duties;
8. We shall provide you with free assistance in completing tax returns and other tax forms required under the Law and provide tax returns and other tax forms free of charge, as needed;

9. We shall provide you with consistent, prompt and competent service and respond promptly to your letters and phone calls;
10. We shall inform you in advance of field audits and give you time to prepare all necessary documentation if you perform your tax obligations honestly. Upon completion of the audit you shall be provided with official audit results;
11. Our policy will be that ambiguous items in the Tax Code (Legislation) will be settled in favor of the Taxpayer; and
12. All instructions or obligations directed towards you shall be executed in written form.

II. You have the right:

1. To represent your interests in our agencies in person or through your representative;
2. To be present at your tax audit, be informed of the results of an audit and promptly receive a copy of the audit report;
3. To respond to and comment on audit reports and tax calculations and payment procedures;
4. To file a complaint or appeal a decision according to procedures specified by the Law, if you consider an action and decision unfair. If you are not satisfied with the results of an administrative appeal, you can appeal to a Court;
5. To enjoy any concession granted to you by the Tax Law;
6. To claim compensation for losses incurred due to the illegal actions of a tax officer (including lost benefit) as determined by the Law;
7. To claim a refund or credit for other tax liabilities by the procedures under the Law;
8. To refuse to submit tax documentation to control and law enforcement authorities, other than Tax Department except cases envisaged by the legislation; and
9. To require from a tax officer a reference to the relevant normative act that forms the legal basis for his/her actions or decision by referencing relevant normative act.

III. You are obligated to:

1. Be honest and cooperative;
2. Pay taxes specified in the Tax Code by the specified deadline;
3. Maintain records and accounts according to prescribed forms and rules to permit correct determination of tax obligations;
4. To compile tax returns correctly and submit complete and accurate information in a timely manner; and
5. Support tax officials in performing his/her own legal duties and responsibilities.

We will presume that you fulfill your tax obligations honestly if there is no evidence to the contrary.

The law envisages strict sanctions in case of failure to perform tax obligations.

If you believe that your rights have been violated, immediately contact your district tax authorities or the Office of the Inspector General at 995 32 93-18-99.

Does any office oversee the activities of the Tax Department?

The Office of the Inspector General for the Tax Revenue Ministry of Georgia (TRMG) was established in June 2000 by Presidential Decree. The Inspector General provides leadership and coordination and recommends policy for activities designed to:

- promote economy, efficiency, and effectiveness in the administration of revenue laws, and
- prevent and detect fraud and abuse in the programs and operations of the TRMG and related entities.

The Inspector General is committed to serving the public by conducting audits and inquiries that improve TRMG operations. The Inspector General's ability to serve the public is dependent on the diligence of TRMG employees and the citizens of Georgia in reporting wrongdoing. Allegations may be made anonymously via the Inspector General Hotline on the Internet (<http://ig-trm.gov.ge>), or by telephone or fax (995 32 93-18-99). The Office of the Inspector General pledges to protect the anonymity and confidentiality of all communications.

Section XIV. Summary

The information in this *Guide* was compiled to and published to help make the tax laws and procedures more understandable to the general public. Greater knowledge of tax laws and procedures will serve to increase compliance among taxpayers. Furthermore, taxpayers with a greater understanding of tax laws and procedures will be better able to discuss tax issues with tax officials and, when necessary, effectively assert their rights.

Taxpayers are encouraged to refer to the Tax Code and accompanying instructions for additional guidance on the information provided.