

LEGAL NEWSLETTER

- *Issue N3, 03.08.04*
- **Mgaloblishvili, Kipiani,
Dzidziguri (MKD) Law Firm**

Contents:

I Part: Secondary Legislation

INSTRUCTIONS

Regarding the Exercise of Tax and Customs Exemptions during Implementation of the US Government Assistance Programs within the Agreement between the Government of the Republic of Georgia and the US Government On Cooperation in Promotion of Humanitarian and Technical-Economic Assistance of July 31, 1992 and the Agreement between the Government of Georgia and the US Government On Cooperation in Defense of December 10, 2002

- **Article 1.**

- **General Provisions**

- The present Instructions have been developed in compliance with Order N 144 of the President of Georgia On Arrangements for Security of Obligations assumed by Georgia under Agreement between the Government of the Republic of Georgia and the US Government On Cooperation in Promotion of the Humanitarian and Technical-Economic Assistance of July 31, 1992 and the Agreement between the Government of Georgia and the US Government on Cooperation in Defense of December 10, 2002, of April 23, 2004; Agreement between the Government of the Republic of Georgia and the US Government On Cooperation in Promotion of the Humanitarian and Technical-Economic Assistance of July 31, 1992 (hereinafter the Bilateral Agreement), the Agreement between the Government of Georgia and the US Government on Cooperation in Defense of December 10, 2002 (hereinafter jointly referred to as the International Agreements), paragraph 8 of Article 4 and Article 227 of the Tax Code of Georgia and determine the rule of use of tax and customs exemptions established thereunder.

- **Article 2.**

- **Information of Assistance Projects**

- 1. Based on the semiannual interval (on July 1 and December 31 of each year) within 15 working days following the receipt of any preliminary new information till the delivery of the list or lists or the updated full list or lists by the US Government to the Ministry of Finance of Georgia, the Ministry of Finance of Georgia shall officially notify in writing all Implementers that they are exempted from taxes (including VAT) and custom charges (duties and fees) on purchase of goods (objects of utility, spare parts, equipment), works and services within the assistance projects under the relevant international agreements. The notice shall contain the assistance project name, dates of commencement and completion.
 - 2. Monetization of goods (sale or barter of goods imported within the Bilateral Agreement) aimed at implementation of the assistance programs within the Bilateral Agreement within the assistance program under the Bilateral Agreement shall be exempted from taxes (including VAT) and custom charges (duties and fees). The Ministry of Finance shall officially notify the Implementer in writing that such monetization is a part of the US Government assistance program within the Bilateral Agreement, and, therefore, within the program under the Bilateral Agreement the Implementor shall be exempted from taxes (including VAT) and custom charges (duties and fees).

Secondary Legislation

3. The Ministry of Finance, tax authorities shall not request from the Implementer any additional information in connection with the assistance project and financing mechanism without the preliminary consideration of such request with the US Embassy or the US donor organization responsible for the assistance.
- **Article 3.**
Custom Charges (Duties and Fees)
 1. Import and export of goods (objects of utility, food products, medical items, equipment, stock and other products) related to the assistance programs within the international agreements under the Bilateral and International agreements, shall be exempted from custom charges (duties and fees). The goods and objects of utility for the monetization programs within the Bilateral Agreement under this Agreement shall be exempted from custom charges (duties and fees).
 2. In case of import of goods (objects of utility, food products, medical items, equipment, stock and other products) or of goods and objects of utility intended for monetization the Implementor shall, at least ten working days before, apply in writing to the Ministry of Finance of Georgia and the US Government donor organization and provide the following information:
 - a) the implementer's name and address;
 - B) the brief description of the assistance project in frames of which the goods are imported;
 - c) the amount, cost and list of imported goods;
 - d) the documents accompanying the goods, such as the copy of invoice and bill of lading (commodity waybill) or air waybill.
 3. In addition to the information mentioned in clause 2, when importing the goods for the humanitarian assistance the Ministry of Finance shall be provided with the plan of distribution of the humanitarian assistance goods. In case the Implementer imports the goods for personal use, the distribution plan shall note that the goods will be used for the personal purpose of the Implementer in connection with the project or for implementation of the assistance project.
 4. Any imported or exported goods (food products, industrial goods, household appliances, equipment and other commodity) which are intended for the

Secondary Legislation

personal use of the employees of the US Government or implementing organization, other than the Georgian nationals, under the international agreements, shall be exempted from custom charges (duties and fees).

5. Within 10 working days following the receipt of information mentioned in Clause 2 of this Article, and for the humanitarian assistance one mentioned in Clause 3, the Ministry of Finance shall officially notify in writing the project implementer about its consent or dismissal of import. If the Ministry does not respond within 10-day period, this will be deemed as the consent and the import will be performed without custom charges (duties and fees). In case of dismissal the Ministry of Finance shall notify in writing the project implementer, customs department and US donor agency responsible for the assistance program implementation. The notice shall indicate the reason of dismissal.
6. To obtain the additional information in connection with the submitted documents and project implementation the Ministry of Finance of Georgia, custom authorities shall at first apply to the US Embassy or the donor organization responsible for assistance program.
7. All documents submitted to the Ministry of Finance in foreign language shall be translated into Georgian and the accuracy of translation shall be certified by the Implementer.

o **Article 4.**

Value Added Tax (VAT)

1. Delivery of goods (objects of utility, stocks, equipment and other products), providing work and service to legal entities implementing the US Government assistance programs within the International Agreements, aimed at implementation of the assistance program under the International Agreements shall be exempted from taxes, including VAT (it shall not contain the VAT part) and, accordingly, taxed at a zero rate of VAT.
2. When the Implementor purchases (buys out) the goods, work and service within the assistance program, he shall submit the notice from the Ministry of Finance stipulated in Clause 1 of Article 2 to the provider of goods, work or service. The provider of goods, work and service shall file the tax invoice on delivery of goods, work and service for the assistance project implementor. The price of the taxation object for the project implementor, under the International Agreements, within the assistance program shall not

Secondary Legislation

contain VAT and, accordingly, in the VAT column of the tax invoice shall be written the figure - zero (0). The invoice shall be filled in accordance with the law. Two copies of the invoice will be delivered to the assistance program implementor.

3. The Implementor, who within the assistance program implements purchase (buying out) of goods, work and service at the zero rate of VAT, will keep one copy of the tax invoice for the own accounting purpose, under the procedure established by the law. The other copy of the tax invoice received from provision of goods, work and service will be submitted by the Implementor to the respective tax authority under the procedure established by the law. At the same time, one Xerox-copy of the tax invoice will be submitted to the tax department till the 20th day of a next month.
4. Sale or barter of goods for the monetization programs under the Bilateral Agreement shall be exempted from VAT. The sale or barter performed by the Implementor shall be accompanied with the notice by the Ministry of Finance as per Clause 2 of Article 2.

o **Article 5.**
Other Taxes

1. Any US governmental organization or US private organization located in Georgia, which assumes responsibility for implementation of the US assistance project, under the International Agreements, within the assistance program, shall be exempted from the income, profit, social insurance, property, land, road use, excise, property transfer and any other taxes, including the common national taxes connected to the rent, accommodation or transportation.
2. Any US private organization which assumes responsibility for the performance of the US assistance project under the international agreements or any its employee who is not a Georgian national and has been sent to Georgia in connection with this program, under the International Agreements. within the assistance program, shall be exempted from the income tax, including the tax on income received at the source in Georgia, the profit tax, social insurance, property tax, land tax, road use tax and other taxes, including the common national taxes connected to the rent, accommodation or transportation.

Mgaloblishvili, Kipiani, Dzidziguri (MKD) law firm was founded in November 1996. It operates as a general partnership and is recognized as well-established, respected leading law firm in Georgia with national, regional and international clients.



Mgaloblishvili, Kipiani, Dzidziguri (MKD)
4, Tavisupleba Square
0105 Tbilisi, Georgia
Tel: + 995 32 923880/923882
Fax: + 995 32 923884
info@mkd-law.com
www.mkd-law.com

Disclaimer: This Legal update is written as a general guide only. It is not intended to contain definitive legal advice which should be sought as appropriate in relation to a particular matter. If you would like further information on the issues reported here, please contact Mika Gogeshvili at mgogeshvili@mkd-law.com

© 2004 Mgaloblishvili, Kipiani, Dzidziguri (MKD) Law Firm