International Tax

Georgia Highlights

In Plain English

CASTRO &CO INTERNATIONAL

1701 Pennsylvania Ave NW, Suite 200
Washington, DC.
20006, USA

Phone : +1 202 792 6600
www.CastroAndCo.com

Investment basics:

Currency – Georgian Lari (GEL)

Foreign exchange control – There generally are no foreign exchange controls and no restrictions on the import or export of capital. Funds may be repatriated in any currency. However, the Georgian Lari is the only legal tender in the country. Both residents and nonresidents may hold bank accounts in any currency.

Accounting principles/financial statements – IAS/IFRS. Financial statements must be prepared annually. The Law on Accounting and Financial Audits requires that certain statements (financial statements, management reports, statements of payments made to the state and audit opinions) be submitted after the ninth month of the reporting period by certain categories of entities defined in the law.

Principal business entities – These are the joint stock company, limited liability company, general and limited partnership, cooperative and sole proprietorship. A branch of a foreign enterprise is not considered a separate entity, but rather a subdivision of its head office.

Corporate taxation:

Residence – An entity generally is considered a resident of Georgia if it is registered in Georgia.

Basis – Residents are taxable on their worldwide income; nonresidents are taxed only on Georgia-source income.

Companies are subject to tax only if corporate profits are distributed (in 2017, Georgia moved from a system under which companies were subject to tax on their annual taxable profits). The new profit tax system currently applies only to Georgia resident companies and permanent establishments (PEs) of nonresident companies; commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops will be subject to the rules on 1 January 2023.

Taxable income – Georgia resident companies and PEs of nonresident companies are taxed on their actual and deemed distributed profits, including the following: distributed profits, expenses incurred or other payments unrelated to economic activities, gratuitous supplies of goods/services and/or transfers of funds and representation expenses that exceed the maximum amount set out in the tax code.

Certain types of payments are subject to profit tax as deemed profit distributions, including the following:

- Payments made for the acquisition of a debt security issued by a person resident in a low-tax jurisdiction or by a person that is exempt from profit tax under the Georgia tax code (except a budgetary organization or legal entity under public law);

- Payments of penalties/fines arising from contractual relationships or advance payments made to a person resident in a low-tax jurisdiction or to a person that is exempt from profit tax under the Georgia tax code (except a budgetary organization or legal entity under public law);

- Capital contributions or payments made to purchase shares/interests (excluding the purchase of shares/interests on a stock exchange recognized by a foreign country) for the right to participate in the equity of a nonresident or a person that is exempt from profit tax under the Georgia tax code;

- Granting of loans or payments made for the acquisition of a claim with respect to a person resident in a low-tax jurisdiction or a person that is exempt from profit tax under the Georgia tax code (except a budgetary organization or legal entity under public law); and

- Granting of loans to a resident individual or a nonresident (excluding the purchase of debt securities on a stock exchange recognized by a foreign country).

Payments made to a nonresident enterprise, whether in monetary or nonmonetary form, from profits earned from a PE's activities are treated as distributed profits of the PE (except profits of a PE earned before 1 January 2017).

To calculate the taxable amount, the amount of a distribution subject to taxation is divided by 0.85.

Special rules apply to profits from oil and gas activities.

Taxation of dividends – Dividends paid between Georgian companies are excluded from the taxable base (except for dividends paid out of net profits earned between 1 January 2008 and 1 January 2017). This effectively means that further distributions of taxed dividends by Georgian company (except for a sole proprietor and a person that is exempt from profit tax under the tax code) is not deemed to be a profit distribution. However, a further distribution of taxed dividends received from commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops is not deemed to be a profit distribution for net profits earned between 1 January 2008 and 1 January 2023. Net profits earned during the period 1 January 2008 to 1 January 2017, as well as dividends from net profits earned between 1 January 2017 and 1 January 2023, if distributed by 1 January 2023 and paid to commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops are deemed to be a profit distribution.

Resident enterprises, except for PEs of foreign entities, that distribute dividends on or after 1 January 2017 from net profits that were subject to tax between 1 January 2008 and 1 January 2017 may offset the tax paid on the distributions against the profit tax paid in the prior reporting period, based on a formula set out in the tax code. The profit tax credit may not exceed the tax paid on the profit distribution.

Dividends received from foreign enterprises (with the exception of entities resident in a low-tax jurisdiction) is not subject to profit tax.

Capital gains –Capital gains are not subject to taxation under the new profit tax system. However, capital gains are taxable as business income at the regular corporate income tax rate for commercial banks, credit unions, insurance organizations, microfinance organizations and pawnshops.

Capital gains derived from a related party transaction (that is not subject to taxation under the new profit tax system) carried out at a value that differs from a market value are deemed to be distributed profits for Georgian resident companies and PEs.

Losses – Losses may be carried forward for up to five years, although a taxpayer may request a 10-year carryforward period from the tax authorities for losses incurred in 2010 or thereafter. The carryback of losses is not permitted. However, these rules do not apply to resident entities and PEs that are subject to the profit tax rules that apply as from 1 January 2017.

Rate – 15%

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Tax paid on income earned outside Georgia may be credited against Georgian tax, but the credit is limited to the tax assessed in Georgia on the income in accordance with the applicable rate. This rule also applies to PEs of foreign entities, with credit allowed against the profit tax on distributed profits.

Participation exemption – No

Holding company regime – No

Incentives – Taxpayers that are not taxable on their distributed profits may take accelerated depreciation on certain groups of assets, but the rate cannot exceed twice the normal depreciation rate provided in the tax code. These taxpayers also may fully deduct the costs of purchased or manufactured fixed assets in the year in which the assets are put into operation (a form of capital allowance). If the taxpayer utilizes the full deduction, this method must be applied to all fixed assets that are acquired or produced over the next five years. The full- deduction method cannot be applied to leased assets, non-depreciable assets or assets transferred to capital.

Withholding tax:

Dividends – Dividends paid to nonresident entities, noncommercial legal persons and individuals (whether resident or nonresident) are subject to a 5% withholding tax, unless the rate is reduced under a tax treaty.

Interest – Interest paid by a resident or a PE of a nonresident or on their behalf to individuals, organizations or nonresident entities without a PE in Georgia is subject to a 5% withholding tax, unless the rate is reduced under a tax treaty. The rate increases to 15% where the interest is paid to a nonresident registered in a low-tax jurisdiction.

Royalties – Royalties paid to a nonresident or resident individual (other than an individual that is a VAT payer) are subject to a 5% and 20% withholding tax, respectively, unless the rate is reduced under a tax treaty. The rate increases to 15% if the recipient is a foreign company registered in a low-tax jurisdiction.

Technical service fees – Technical service fees paid to a nonresident not engaged in oil and gas activities are subject to a 10% withholding tax, and 4% where the nonresident provides technical services with respect to oil and gas transactions. The rates may be reduced under a tax treaty.

The rate is 15% if the foreign company (other than a company engaged in oil and gas activities, international telecommunications or international transportation) is registered in a low-tax jurisdiction.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The property tax rate, established by the local authorities, may not exceed 1% of the average residual value of fixed assets, investment property, uninstalled equipment and construction in progress recorded annually in a company's balance sheet. To arrive at the 2019 taxable base for real estate, the average net book value of real estate at the beginning and the end of 2019 is multiplied by a coefficient based on the purchase date if the taxable assets were purchased before 1 January 2005 (no coefficient applies for purchases after 2004). The coefficients are not applicable to state-owned companies or to certain Georgian companies that record their immovable property based on the revaluation method if other requirements are met.

Specific rates apply to land, depending on the location and fertility of the land.

Social security – No, but a “defined contribution scheme” was introduced on 1 January 2019. The law regulates the organization and execution of the scheme and sets out the terms and conditions for participation. The scheme applies to employers, citizens of Georgia and foreign nationals and stateless persons residing in Georgia on a permanent basis (but not nonresident individuals who hold Georgian citizenship). Under the defined contribution scheme, the employee and the employer each contribute 2% of the employee’s gross salary, and the state contributes 2% if the employee’s gross annual income is less than GEL 24,000 and 1% of the employee’s gross salary for the part of the employee’s gross annual income that is more than GEL 24,000 but less than GEL 60,000 (no contribution is made where the annual salary exceeds GEL 60,000). A self-employed person makes a 4% contribution and the same state contribution structure applies in this case.

Stamp duty – No

Transfer tax – No

Other – Any activity that requires a license for the use of natural resources (other than land) owned by the state is subject to a fee for the use of the natural resources.

Anti-avoidance rules:

Transfer pricing – Georgia has comprehensive transfer pricing rules that generally follow OECD transfer pricing guidelines. There are provisions in the tax code aimed at regulating the taxation of related party transactions. The tax authorities can challenge such transactions where the price agreed between the parties is diverges from the market value. The tax authorities can compare the conditions of transactions between related persons with those of transactions between unrelated parties, and allocate income and expenses between related parties based on principles that would have applied in transactions between independent persons.

The transfer pricing rules apply to transactions between a Georgian resident company and a related foreign company, and between a Georgian resident company and an unrelated foreign company that is registered in a low- tax jurisdiction.

Five pricing methods are recognized for evaluating whether prices are on arm’s length terms: the comparable uncontrolled (independent) price; resale price; cost plus; net profit margin; and profit split methods.

Taxpayers must maintain contemporaneous transfer pricing documentation, which must be submitted to the tax authorities within 30 calendar days of a request.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Compliance for corporations:

Tax year – The tax reporting period is the calendar month for taxpayers taxable on distributed profits and the calendar/tax year for other taxpayers.

Consolidated returns – No

Filing requirements – Georgia operates a self- assessment regime. Tax returns for taxpayers that are taxable on their distributed profits must be filed and tax paid by the 15th day of the month following the reporting calendar month. For other taxpayers, annual income tax returns must be filed by 1 April of the year following the tax (calendar) year. The deadline may be extended for up to three months. Advance payments of tax are made in four installments for calendar year taxpayers; those taxable on their distributed profits do not make advance payments.

Penalties – Penalties are imposed for failure to register with the tax authorities, late filing and failure to file a tax return, late payment of tax and the under-declaration of the tax liability.

Rulings – A ruling may be obtained from the tax authorities on the tax consequences of a transaction.

Personal taxation:

Basis – Resident and nonresident individuals are taxable only on Georgia-source income. Dividends and interest received by resident individuals from resident companies are excluded from the taxable base.

Residence – An individual is resident if he/she is present in Georgia for more than 183 days in any continuous 12- month period ending in a tax year and if the individual was abroad during the tax year in public service of Georgia. An individual also may become a tax resident of Georgia if she/he has high net worth, as defined under the securities market law.

Filing status – Each registered individual taxpayer must file a separate return. However, families may file joint property tax returns.

Taxable income – The main categories of taxable income include employment income, income from independent activities, including business income (i.e. sole proprietors), dividends, interest, royalties, pensions, rental income and income from the disposal of property.

Capital gains – Capital gains derived by individuals from the sale of private property not related to a business activity are not taxable if the property has been held for more than two years. Capital gains derived from a business activity are included in business income. Capital gains are included in gross income and, after relevant deductions, are taxed at a rate of 20%.

Deductions and allowances – Expenses related to business activities are deductible for sole proprietors. There are no personal deductions or allowances for individuals.

Rates – Employment income (including benefits) and the income of sole proprietors is taxed at a flat rate of 20%.

Income from renting out residential space to a person solely for residential purposes, and where no deductions are taken from such income, is taxed at 5%.

Dividends and interest are subject to a 5% withholding tax.

Income from the sale of a vehicle or a residential apartment (house) with an attached land plot is taxed at 5%.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Households with annual income below GEL 40,000 are exempt from property tax on real estate and light vehicles. Where annual income is between GEL 40,000 and GEL 100,000, the tax is payable at rates ranging from 0.05% to 0.2% of the market value of the taxable property; above GEL 100,000, the rates range from 0.8% to 1%.

Inheritance/estate tax – Gifts, other than gifts received from employers, with a value not exceeding GEL 1,000 per year are exempt. Gifts to first and second- degree relatives are fully exempt from personal income tax, while gifts to third and fourth-degree relatives are exempt up to GEL 150,000 per year.

Net wealth/net worth tax – No

Social security – No

Compliance for individuals:

Tax year – Calendar year

Filing and payment – A tax return must be submitted by 1 April following the tax year. Tax on employment income is withheld and remitted to the tax authorities by the employer, with the tax return filed monthly. Other income is self-assessed. Income tax payable by a sole proprietor is due in four annual installments. For other individual taxpayers, the liability is settled by a single payment on 1 April of the year following the tax year.

Penalties – Penalties are imposed for failure to register with the tax authorities, late filing and failure to file a tax return, late payment of tax and the under-declaration of the tax liability.

Value added tax:

Taxable transactions – VAT is levied on the sale of goods and the provision of services and imports that are deemed to be carried out within Georgia. A taxable transaction occurs at the time of a supply of goods (services) and, in the case of a supply of goods involving loading, the time of loading. However, it may not be later than the time amounts were paid to the supplier of goods/services in advance. A reverse charge mechanism applies to certain supplies.

Rates – The standard VAT rate is 18%, although certain transactions are exempt.

Registration – A business with annual business revenue of GEL 100,000 or more must register for VAT purposes.

Filing and payment – Filing and payment must be made by the 15th day of the month following the reporting calendar month. Input VAT may be credited against output VAT.

Source of tax law: Tax Code of Georgia

Tax treaties: Georgia has concluded tax treaties with 55 countries, and tax information exchange agreements with two countries. Georgia signed the OECD MLI on 7 June 2017.

Tax authorities: Revenue Service of the Ministry of Finance