



# EBA Position Paper

## Tax Dispute Resolution System in Georgia: Implications for Business Climate

### ABOUT THE EUROPEAN BUSINESS ASSOCIATION

The European Business Association (EBA) is a non-profit, membership-based organization registered in Georgia in 2017.

The mission of EBA is to advocate/lobby for European Businesses in Georgia, and to facilitate the development of trade and investment between Georgia and Europe.

EBA has 105 members: European companies operating in Georgia, as well as Georgian companies interested in exporting goods and services to the European market, representing sectors such as IT, construction, agriculture, medical services, tourism, finances, transportation.

The European Business Association Board consists of the CEOs of the European Companies invested and operating in Georgia: Publicis (Dutch), Gosselin (Belgian), Hilton Batumi, (German), TBSC Poland, (American), GPI holdings Austria, (Georgian), Eptisa, (Spanish), representing significant industries and businesses with vested interest in Georgia.

Association is prohibited from supporting political parties and companies that do not meet the Association's strict Code of Conduct, which includes principles such as fair competition, safe work environment, protecting employers' rights, corporate social responsibility (CSR), preventing corruption.

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## TAX DISPUTE SYSTEM, AS A CHALLENGE IDENTIFIED BY THE EBA MEMBERS

EBA always follows needs and demands of the members and the current tax dispute resolution system was identified as an important bottleneck for their economic activity and their possibility to compete and survive in the Georgian market in the medium term.

Like everywhere, each and every company has duties and obligations vis a vis of the fiscal system and disputes between undertakings and revenue service are very frequent.

For companies with limited turnover, and considering the hard conditions for accessing to financial credit, long duration and uncertainty of dispute resolutions may frequently result in severe consequences for the companies involved, up to their inability to compete with other companies and to be forced to exit the market.

Currently, in the framework of the tax dispute resolution system in Georgia, undertakings can see seized important amount of money or properties as warranty/guarantee of their (alleged) obligations towards the Revenue service. This amount/property (that in some case would overcome the initial supposed debt) will stay blocked until the dispute will be cleared. This could take (and often takes) several years.

In addition, for several reason (including lack of a transparent and IT based system directed at scheduling the hearings), business representatives cannot estimate the duration and the conclusion of the dispute.

Foreign entrepreneurs even more than local undertakings competing in the same market, can find difficult to get themselves through the system (as an example, many pieces of legislation, including the decree on dispute resolution, is not accessible in English language in the official Website of the RS).

In case of dispute, the subject involved can make recours to the Georgian Courts (first degree, appeal, Supreme Court) with a possible duration of 2-3 years or more. The judges that will decide the dispute, however, are in charge of any subject and are not part of specialized sections in fiscal law.

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Alternatively, the subject could send his objections to Revenue service, on first place. Following the possible rejection, the dispute can go to the "Tax dispute Council" c/o the Ministry of Finance. This latter stage normally last 1-2 years, or even more.

If, following the Dispute Council decision, the entrepreneur is not satisfied, can always suit the Courts (3 degrees, as mentioned above) with all the connected consequences in terms of time duration and legal expenses (including for business lawyers specialized in fiscal law).

In most cases the Revenue Service and Dispute Council of Ministry of Finance due to objective reasons return the issue in the Department of Audit to re-study (recheck) and after a new conclusion of Audit, everything starts from beginning - and this additionally requires more time for disputes and resolutions.

The Council is composed by 8 representatives (some of which in representation of the Government) and is headed by the Minister of Finance (or delegated official). Its members are not remunerated and are only part-time involved in this activity. Normally, because of the large amount of disputes, they study the case and give the decision in the same day. No particular rules for identifying incompatibility or for preventing conflict of interest are in place.

Giving the above described context, it appears that the current system can have a negative impact on the possibility of some categories of companies (in particular SMEs) to enjoy a fair, transparent and equitable business climate necessary to enable them, from one side, to grow and compete with their competitors on a equal foot basis and, on the other, to be granted the respect of principles of right of defence, reasonable duration of disputes, impartiality and transparency of public bodies (in conformity with EU standards and DCFTA principles).

## SOLUTION

We propose to share the best international experience related to the tax dispute resolution system, invite international and local experts, assess legislation and organize targeted meetings with stakeholders.

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Chairman

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