

**N633 Decree of the Minister of Finance of Georgia**

**Dated December 28, 2011**

**Tbilisi**

**On**

**Approval of rules for benefiting from tax reliefs under the International Agreement on the Avoidance of Double Taxation and repayment of taxes paid to non-residents in Georgia**

Based on Article 125 of the Tax Code of Georgia, **I hereby order:**

**Article 1**

To approve the rules about “Benefiting from tax reliefs under the International Agreement on the Avoidance of Double Taxation and repayment of taxes paid to non-residents in Georgia” and forms attached thereto (Form N1, Form N2, Form N3, Form N4).

**Article 2**

Declare invalid N145 Decree of the Minister of Finance dated March 2, 2010 on “Granting reliefs and repayment of taxes paid by non-residents in Georgia prescribed by applicable and ratified International Agreement on the Avoidance of Double Taxation”.

**Article 3**

1. Before this Decree becomes effective, Forms filled in appropriately and presented to the Tax Authority according to the Decree of the Minister of Finance dated March 2, 2010 on “Granting reliefs and repayment of taxes paid by non-residents in Georgia prescribed by applicable and ratified International Agreement on the Avoidance of Double Taxation”, shall remain valid.

2. Tax agent shall present to the Tax Authority Form N1 (Tax agent information on exemption or reduction of tax withheld at source on income paid to non-resident) approved under this Decree before April 1, 2013, on arrangements carried out before January 1, 2012 on which relevant forms are not filled in and presented. (N103 Decree of the Minister of Finance dated March 30, 2012 – web-site 02.04.2012)

**Article 4**

This Decree shall become effective from January 1, 2012

## **D.Gvindadze**

Amendments:

1. N103 Decree of the Minister of Finance dated March 30, 2012 – web-site 02.04.2012

### **Rules for benefiting from tax reliefs under the International Agreement on the Avoidance of Double Taxation and repayment of taxes paid to non-residents in Georgia**

#### **Article 1**

##### **General Definitions**

1. These rules define procedures for benefiting from tax reliefs, repayment of excessive taxes paid and approval of residency of Georgia, under applicable and ratified by Georgia International Agreement of the Avoidance of Double Taxation and the Prevention of Fiscal Evasion (hereinafter referred to as International Agreement).
2. Utilization of norms and provision and information of tax authority is performed by means of Forms approved by this Decree, in particular:
  - a) Resident of Georgia shall fill in: Form N1 “Tax agent information on exemption or reduction of tax withheld at source on income paid to non-resident” and Form N4 “Application for Certificate of Residence”.
  - b) Georgian non-resident shall fill in: Form N2 “Declaration of a Non-Resident on taxes paid/withheld in Georgia and claim for their repayment” and Form N3 “Request of a Non-Resident for Issuing Certificate of Taxes Paid in Georgia”.
  - c) Tax authority shall fill in: Part V of Form N3 “Certificate of the tax authority of Georgia” and Part II of Form N4 “Certificate of Residence for Year”.
3. Following codes shall be used to indicate the type of income:
  - a) Interest – 01;
  - b) Dividends – 02;
  - c) Capital gains- 03;

- d) Royalties – 04;
  - e) Income from independent personal services – 05;
  - f) Income from employment – 06;
  - g) Other income – 07 (different types of income are indicated separately).
4. Forms shall be filled in in Georgian or English languages. It is allowed to indicated names and address in languages other than Georgian or English by means of Latin alphabet. In cases, when forms are filled in in other foreign languages, forms and attached documents shall be translated into Georgian language, notarized and presented to the tax authority.
  5. Tax authority is obliged to present its decision to applicant in writing or issue a relevant statement within 30 calendar days from the date of submission of request. If the request contains errors, tax authority sets a deadline for the period of time no more than 30 calendar days to correct these errors.
  6. In the case, if it is not possible to make a decision or issue a statement within time limits set out in paragraph 5, tax authority is obliged to inform applicant on approximate date of making decision or issuance of statement.
  7. In the case of a request of the resident of Georgia, tax authority ensures submission of the aforementioned statement to the foreign tax authority.
  8. For the purposes of these rules, Certificates of Residence shall remain valid for the period defined by the relevant Agreement on the Avoidance of Double Taxation, for which the recipient of income is considered a resident.
  9. Certificates of Residence issued by foreign competent authorities do not require apostille or legalization.

## **Article 2**

### **Tax agent information on exemption or reduction of taxes withheld at source on income paid to non-resident (Form N1)**

1. Tax agent shall present to tax authority tax agent information on exemption or reduction of taxes withheld at source on income paid to non-resident (form N1) by the 1 April of the year next following the reporting year.

2. Certificate of Residence of the recipient of income, issued by the competent authority of the relevant country and its authenticated copy translated into Georgian language shall be attached to Form N1.
3. An amount paid in foreign currency shall be calculated in GEL according to the official exchange rate set out by the National Bank of Georgia on the day of payment.
4. Rules for filling in Form N1:
  - a) Information about tax agent shall be indicated in Part I of Form N1;
  - b) Identification number of tax agent shall be indicated in Part II of Form N1;
  - c) Address (place of residence or legal address) of tax agent shall be indicated in Part III of Form N1;
  - d) Following information shall be indicated in Part IV of Form N1:
    - Name of the recipient of income ;
    - Identification number of the recipient of income;
    - Country of residence of the recipient of income;
    - Number/date of the agreement, if applicable;
    - Date of payment by tax agent to the recipient of income;
    - If a tax agent is exempt from withholding tax, box “Income paid if not withheld” shall be filled in; if the recipient of income benefits from reduced tax rate under an International Agreement, box “Reduced tax withheld at source” shall be filled in, as well as rate according to Tax Code of Georgia, rate according to International Agreement and amount withheld shall be indicated.
  - e) Tax agent confirms that information provided is true and complete.

### **Article 3**

#### **Declaration of a Non-Resident on taxes paid/withheld in Georgia and claim for their repayment (Form N2)**

1. Form N2 shall be filled in and presented to the tax authority by a non-resident receiving income from sources in Georgia or its legal/authorized representative.

2. Certificate of Residence of the recipient of income, issued by the competent authority of the relevant country and its authenticated copy translated into Georgian language shall be attached to Form N2 and presented to the tax authority.
3. The recipient of income shall present Form N2 to the competent authority in one copy within time limits set out according to the Tax Code of Georgia.
4. Original of Form N2 remains with the Tax Authority, while applicant shall be provided with sealed authentic copy.
5. Repayment of excessive sums paid, shall be carried out according to the rules prescribed by the Tax Code of Georgia, if a Tax Authority issues a statement, certifying that the excessive tax paid shall be repaid to a non-resident.
6. Rules for filling in Form N2:
  - a) Part I of Form N2:
    - a.a) if the person is a legal person, name of the recipient of income shall be indicated in the first (1<sup>st</sup>) box; if the person is an individual – name/surname shall be indicated;
    - a.b) tax identification number (TIN), which a person has in his country and/or Georgia for tax purposes, shall be indicated in the second (2<sup>d</sup>) box. If the recipient of income is an individual, and does not have such number, his personal ID number shall be indicated;
    - a.c) the third (3<sup>d</sup>) box shall be filled in by an individual and the date and the place of birth of the recipient of income shall be indicated;
    - a.d) address (place of residence or legal address) shall be indicated in the fourth (4<sup>th</sup>) box;
    - a.e) contact address shall be indicated in the fifth (5<sup>th</sup>) box, if different from that indicated in the fourth (4<sup>th</sup>) box;
    - a.f) bank details (i.e. SWIFT, IBAN, etc.,) and account number where sums had been transferred shall be indicated in the sixth (6<sup>th</sup>) box. The Box shall not be filled in if sums were not transferred;
    - a.g) country of residence of the recipient of income shall be indicated in the seventh (7<sup>th</sup>) box. Residency criteria shall be indicated as well.

- a.h) if the recipient of income has a Permanent Establishment in Georgia, its Name and TIN shall be indicated in the eighth (8<sup>th</sup>) box;
- b) Code of type income received, defined by this decree, date of payment, name and address of a tax agent and its Georgian TIN, number and date of conclusion of the agreement (if applicable), income paid before tax shall be indicated in the ninth (9<sup>th</sup>) box of the Part II of Form N2; amount of tax withheld/paid shall be indicated in the part “a” of the last column, while an amount of tax, which a non-resident claims to be repaid, shall be indicated in the part “b”;
- c) Tax agent shall fill in the tenth (10<sup>th</sup>) box of the Part III of Form N2, if an amount of taxes paid by non-resident were withheld at source.
- d) Part IV of Form N2:
- d.a) non-resident recipient of income certifies, that he is the recipient/beneficial owner of the income, in the eleventh (11<sup>th</sup>) box;
- d.b) the recipient of income indicates that he claims for repayment of excessive sums of taxes paid and the amount of claim, in the twelfth (12<sup>th</sup>) box;
- d.c) bank details where repaid sums will be transferred, shall be indicated in the thirteenth (13<sup>th</sup>) box by non-resident recipient of income or its authorized/legal representative;
- d.d) recipient of income certifies that information provided is complete and true and obliges to provide tax authority with any relevant changes.

#### **Article 4**

##### **Request of a Non-Resident for Issuing Certificate of Taxes Paid in Georgia (Form N3)**

1. Non-resident, requesting certificate on income received from Georgian sources and on taxes paid, as well as on taxes paid on property located in Georgia, shall fill in Parts I, II, III and IV of Form N3. Tax agent shall fill in Part V which certifies the amount of taxes paid by non-resident in Georgia.
2. Rules for filling in Form N3:
  - a) Part I of Form N3:

- a.a) Name of the recipient of income shall be indicated in the first (1<sup>st</sup>) box, in the case of a legal person, and the name/surname – in the case of an individual;
  - a.b) Georgian TIN (if applicable) shall be indicated in the second (2<sup>nd</sup>) box. It is obligatory to indicate Georgian TIN, if an applicant has a Permanent Establishment in Georgia;
  - a.c) Address of non-resident (place of residence or legal address) shall be indicated in the third (3<sup>rd</sup>) box;
  - a.d) Country of residence of the person requesting the certificate shall be indicated in the fourth (4<sup>th</sup>) box;
  - b) Income received by non-resident in Georgia shall be indicated in the fifth (5<sup>th</sup>) box of Part II of Form N3. Type of income (i.e. dividends, interest, royalties, etc.) shall be indicated in the table provided; date of payment of such income, the name and address of tax agent, Georgian TIN (if applicable) shall be indicated as well; amount of income before tax, tax rate applicable and the amount of tax paid.
  - c) Property possessed by non-resident and located in Georgia shall be indicated in the sixth (6<sup>th</sup>) box of Part III of Form N3.
  - d) Non-resident certifies that information provided is complete and true and obliges to provide tax authority with any relevant changes in the seventh (7<sup>th</sup>) box of Part IV of Form N3. Date of filling in and relevant authorization/position shall be indicated at the end part IV. Non-resident certifies the request by signature and seal (if applicable).
  - e) Tax authority shall fill in Part V of Form N3, based on the request of non-resident on certificate of taxes paid in Georgia (According to information provided in Parts I, II, III and IV of Form N3). Name of tax authority issuing the certificate and the name of non-resident shall be indicated in Part V of Form N3. The Tax authority certifies an amount of taxes paid by non-resident on income received in Georgia and/or on property located in Georgia. An amount of taxes on income and/or on property paid shall be indicated in Georgian lari (GEL) in relevant boxes.
  - f) Date of issue of certificate shall be indicated at the end of Form N3 and an authorized representative of tax authority issuing the certificate seals and signs the certificate.
3. The original of Form N3, with Part V filled in by tax authority shall be returned to the applicant.

## Article 5

### Application for Certificate of Residence (Form N4)

1. Resident of Georgia shall fill in Part I of Form N4, while Part II shall be filled in by Georgian tax authority.
2. Part I of Form N4:
  - a) in the case of an individual – name/surname of the resident shall be indicated in the first (1<sup>st</sup>) box and the name – in the case of a legal person;
  - b) Georgian TIN ( if applicable) shall be indicated in the second (2<sup>nd</sup>) box;
  - c) Address (place of residence or legal address) shall be indicated in the third (3<sup>rd</sup>) box;
  - d) The fourth (4<sup>th</sup>) box shall be filled in only in the case if a resident is an individual. Type of identification document (certificate, passport), date of issue, expiration date and personal number shall be indicated;
  - e) Criteria for Georgian residency shall be indicated by resident in the fifth (5<sup>th</sup>) box.
  - f) Date of filling in, relevant authorization/position shall be indicated at the end of Part I of Form N4. The resident certifies the request by signature and official seal (if applicable).
3. Tax authority shall fill in Part II of Form N4, based on the request of Georgian resident on Certificate of Residence (according to the information provided in Part I of Form N4). Tax authority certifies by this certificate that the person mentioned shall be considered a Resident of Georgia for tax purposes for the relevant period of time. An authorized representative of tax authority indicates his name and surname, position, name of tax authority, address of tax authority, date and approves the Certificate by signature and official seal.
4. Original of Form N4 shall be returned to the applicant with Part II filled in by tax authority. Copy of Form N4 remains with tax authority.
5. Tax authority is obliged to approve the Georgian residency by signature and official seal, if the resident of Georgia presents the form (with authenticated copy translated into Georgian language) certifying the residence of country where he had received income and if he claims for certifying the residency, for the purposes of benefiting from an international agreement.