

## BGI Special Alert

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### The “Russian Law” and Tax Relief for Transferring Offshore Assets

On 3 April 2024, Georgia’s ruling “Georgian Dream” (GD) party introduced a bill on Transparency of Foreign Influence, widely dubbed as the “Russian Law”. By submitting this bill, GD revived an almost identical bill initiated in the Parliament in February 2023, which was effectively withdrawn after massive public protests in March 2023 accompanied by a public promise by the then GD chairman, the current Prime Minister Irakli Kobakhidze, that the bill would never be reintroduced. Despite mass protests, on 17 April 2024, 83 GD-controlled MPs voted to pass the bill in the first reading. The bill still needs to be passed by two more readings and signed by the president to become a law (in case the president vetoes the bill, GD can override the veto with simple majority of votes).

Notably, on the same plenary session, an alternative bill on the “Protection from the Influence of the Occupying Country – the Russian Federation” submitted by another parliamentary faction was rejected by GD, demonstrating that the spirit of the Russian Law is against Georgia’s Western partners, rather than the enemy power occupying significant part of Georgia’s territory.

The only difference of the bill from the one withdrawn in 2023 is the substitution of the term “agent of foreign influence” with the term “organization pursuing the interests of a foreign power”. The two bills are otherwise identical and are analogous to the Russia’s Law on Control Over the Activities of Persons Being Under Foreign Influence, effective in Russia since 2012.

Under the Russian Law, non-commercial legal entities, including NGOs/CSOs and all types of media outlets (except for non-commercial legal entities established by administrative bodies), shall be required to register with the Ministry of Justice of Georgia (the “**Ministry**”) as “*organizations pursuing the interests of a foreign power*”, if the source of more than 20% of their total income received during a calendar year is a “foreign power”. A “foreign power” is defined broadly to include: (a) entities which are part of the government system of a foreign state; (b) individuals other than citizens of Georgia; (c) legal entities other than entities established in accordance with Georgian law; and (d) organizational formations (including foundations, associations, corporations, unions, and other organizations) or other forms of association of persons which are established on the basis of the law of a foreign state and/or international law.

Failure to undergo mandatory registration or file mandatory financial reports shall result in an administrative fine in the amount of GEL 25,000 (circa USD 9,500), which is one of the largest administrative fines in Georgia. The Ministry shall have the power to investigate the cases of potential violation of the Russian Law and to that end, carry out financial monitoring of the same entity every six months. Such investigation may be conducted at the Ministry’s own initiative or after an anonymous tip containing a “*proper insinuation*” that an organization is carrying out interests of a foreign power. This rule draws chilling parallels with the infamous Soviet practices.

Notably, the Russian Law shall have a retroactive effect and shall apply to all entities which would qualify as the “organizations pursuing the interests of a foreign power” based on the data of the year 2023.

Georgian civil society organizations, all major business associations, independent media outlets, human rights organizations, embassies and capitals of friendly countries have all made statements expressing grave concerns about the Russian Law and warning that this would signal Georgia’s descent into authoritarianism and distancing from its people’s EU aspirations. Nevertheless, GD seems to have firm intentions to pass this bill.

In parallel, GD introduced yet another highly controversial bill for expedited consideration. The proposed amendments to the Tax Code have two main goals:

- (a) pardoning admitted tax liabilities of natural persons (tax debts and related penalties) accrued up to 1 January 2021. Many observers consider adopting such regulations during an election year to be an improper exercise of legislative power; and
- (b) introducing temporary tax reliefs for transferring assets (including shares, other securities) of enterprises registered in the countries with preferential taxation (*i.e.*, offshore jurisdictions) to local enterprises up to 1 January 2028. In addition, any assets imported within such transactions shall be exempt from the import tax and up to 1 January 2030, from the property tax.

Notably, the above tax reliefs shall only apply to those transactions where 100% of the transferring offshore company, as well as the 100% of the receiving local company is owned by the same individual or a group of individuals. Observers believe that this bill is tailored to Georgia's sole oligarch Bidzina Ivanishvili, who may be preparing for the potential Western sanctions in response to the adoption of the Russian Law.

The amendments introducing the above tax reliefs were passed by the Parliament on 19 April 2024, and have been submitted to the president for signing it into law.

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