



# FREE INDUSTRIAL ZONES IN GEORGIA

*Prepared by the BLC Law Office*

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## INTRODUCTION

### ➤ *What is Free Industrial Zone?*

Free Industrial Zone (*hereinafter* “the FIZ”) is the type of a free zone envisaged by Tax Code of Georgia where the business-friendly regulations and favourable tax and customs system apply.

FIZ is singled out during the limited time period for economical activity and the companies operating therein are subordinated to special regime, which is favourable from legal and commercial point of view.

### ➤ *Where can the FIZ be established?*

FIZ may be established in any part of the territory of Georgia area of which exceeds 10 hectares, except for the protected territories envisaged by Georgian legislation.

### ➤ *What are the main characteristics of the FIZ?*

- Payment can be carried out in any currency within the FIZ;
- Tax stimulation;
- Simplified proceedings;
- Exemption from the license/permit requirement as well as facilitation of obtaining such license/permits;
- Authorities of local self-governing bodies (City Halls, Municipalities, etc.) do not cover FIZ territories;
- As the law does not provide for the maximum or minimum time limit for operation of the FIZ, it is left up to the option of establisher;
- The FIZ shall have entrance and exit as

well as customs checkpoints located therein.

### ➤ *Who can initiate the FIZ in Georgia?*

FIZ can be initiated either by the Government of Georgia or by the request of any resident or non-resident natural or legal person (Manager).

As an exception to the aforementioned rule, branch office of a legal person or any other subdivision thereof shall not be entitled to initiate foundation of FIZ, except for the permanent establishment of a foreign entity.

The goods produced by FIZ incorporated entities shall be granted certificate of origin indicating that the goods were produced in Georgia by the Ministry of Economic Development of Georgia.

The management of the FIZ is pursued by the Administrator. Any resident or non-resident natural or legal entity appointed by the Manager or the Manager itself is eligible to be an Administrator of FIZ. In case the Manager is a non-resident legal entity, it shall incorporate a permanent establishment if the Georgian Government adopts positive decision concerning the establishment of FIZ. Please, note that the Manager and Administrator is not a FIZ company and shall be registered under the applicable Georgian Legislation outside the FIZ.

**How can the entity operate within the FIZ?**

An entity can operate in the FIZ by means of incorporation therein. FIZ incorporated entity can be of any organizational-legal form. Procedures of incorporation of legal entities are unified throughout the territory of Georgia including FIZ companies, provided that incorporation of an entity in FIZ is carried out by the LEPL National Agency of Public Registry.

An entity established in the FIZ can carry out its activities at the territory of Georgia outside the FIZ as a permanent establishment of a foreign entity.

Entities (either local or foreign) established outside the FIZ carry out their activities within the FIZ through their permanent establishments incorporated therein, except for the Georgian legal entities providing communal and related services to FIZ companies.

➤ **What are the guarantee requirements for the FIZ?**

The Manager of FIZ shall provide the Government with respective bank guarantee beneficiary of which shall be the Ministry of Economic Development of Georgia. The bank guarantee shall amount to 2 EUR per one square meter of the land plot allocated for the arrangement of FIZ - not exceeding 500, 000 EUR in total.

The bank guarantee shall be valid for the entire time period of FIZ operation and it

should be presented for the period of not less than one calendar year.

There are two forms of guarantee: a) the bank guarantee and b) a deposit in state treasury.

If the Ministry of Economic Development of Georgia adopts positive decision regarding the application on creation of FIZ, it will request the Manager to provide the Ministry with a guarantee in the amount of 10% of applicable guarantee amount.

Such guarantee may be substituted with:

- mortgage of the real property located in Georgia in benefit of State, which must be of a value no less than the bank guarantee; or
- document certifying disposal of the value on the state treasury deposit.

The said bank guarantee shall be effective no later than 15 days from the effective date of the government resolution to establish FIZ and shall be valid until at least on the first day of launching the FIZ.

In addition, the Manager is obliged to provide the Government with a bank guarantee in order to insure obligations related to arranging of road infrastructure to FIZ border.

The amount of such bank guarantee shall be equal to the reasonable financial expenses for arranging of road infrastructure to the FIZ border as provided in respective construction project and incurred by the Ministry of

Economics and Sustainable Development. The bank guarantee shall be valid for the entire period of road construction works.

No guarantee or other collateral shall be required if:

- The Manager undertakes to finance the infrastructure development works on the road leading to the FIZ as approved by the Ministry of Economics and Sustainable Development;
- The Manager contributes to financing of infrastructure development works on the road leading to the FIZ, subject to the agreement with the Ministry of Economics and Sustainable Development.
- State undertakes to fully finance infrastructure development works on the road leading to the FIZ in the scope of FIZ agreement.

### CREATION OF FIZ IN GEORGIA

FIZ can be established either by the request of the Manager or by the government *ex officio*.

➤ **Establishment of FIZ based on the request of the Manager**

The Manager shall provide the government, namely the Ministry of Economics Development of Georgia, with an application containing the following information:

- Identification data of the applicant;
- Description of the borders of the FIZ;
- Design plan for the FIZ;

- Term for establishing the FIZ;<sup>1</sup>

The following documents shall be attached to the application:

- Identification documentation of Manager which is a natural person;
- In case the Manager is a legal entity, documentation indicating firm name, tax registration data (date, information on authorised representative thereof), information on beneficiary owners of more than 10% of the shares of an entity shall be attached to the application;
- Topographic plan of the land plot indicating building facilities, subsoil and ground communications, surrounding land plots and other objects located therein;
- Excerpt from Public Registry certifying the ownership of the Manager or other person<sup>2</sup> on the land plot where the FIZ is planned to be established;
- Cadastral map of the land plot;
- In case the land plot is owned by any person other than the Manager, or is subject to co-ownership, the notarised consent of such owner/co-owner to establish FIZ on the land in question must be attached;
- FIZ arrangement and development conception;

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<sup>1</sup> In case the land plot on which the Manager seeks to establish FIZ is leased by the latter, the term operation of FIZ shall not exceed the term of the lease agreement

<sup>2</sup> Manager may require to establish FIZ regime on the land which is entirely owned by it or is a subject to common property, or is leased by the Manager.

- Draft Charter of FIZ;
- Evidence confirming that the preconditions set out for establishing FIZ are met;

The application shall be considered and consent or rejection shall be communicated to the Manager within thirty (30) days from the day of submission of the application;

Ministry of Economic Development shall draft an Agreement on Counter Obligations to be executed by the government of Georgia and the Manager which shall be submitted to the government of Georgia for consideration and approval.

➤ **Establishment of FIZ by the government of Georgia ex officio**

Whenever the establishment of the FIZ is initiated by the government the Manager of the FIZ to be established shall be determined by means of Tender. The terms and conditions of the Tender and the members of the Tender Committee is determined by Government of Georgia or any authorised governmental body.

## **RESTRICTIONS**

Following restriction shall apply to any FIZ in Georgia:

- No hotel or residential buildings shall be built in FIZ, no space shall be used for residential purposes;
- No arms and defence technology shall be produced and/or sold in the FIZ;
- No nuclear or radioactive agents shall be produced and/or sold in the FIZ;

- No narcotic or psychotropic substances shall be exported, stored, produced and/or sold in FIZ;
- No tobacco products or raw materials shall be exported, stored, produced and/or sold in FIZ<sup>3</sup>;

## **FAVORABLE TAX REGIME**

The acknowledged major privilege of FIZ which attracts business investments in Georgia and makes the place appealing for pursuing business is the favorable tax and customs framework, which is as follows:

- FIZ incorporated entities are exempt from Property Tax;<sup>4</sup>
- No VAT applies to goods produced in foreign countries which are imported in FIZ;
- No VAT applies to the transactions carried out among FIZ incorporated entities;
- No import tax applies to goods produced in other country imported in FIZ;
- Export of the goods produced in FIZ within territory of Georgia is free from Customs duty;<sup>5</sup>

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<sup>3</sup> Tobacco products may be brought into FIZ for personal usage purposes and it shall not be reviewed as export.

<sup>4</sup> FIZ incorporated entity shall seek to obtain the status of International Entity which shall be granted by the tax authorities as a result of the request of authorized representative of FIZ incorporated entity.

<sup>5</sup> Please note that entrance of the goods produced in FIZ within the territory of Georgia is considered

- No foreign exchange controls, trade barriers of quotas;
- No restrictions on capital repatriation;
- Profit gained by an international enterprise from an activity carried out in FIZ is exempt from profit tax;
- Employees of the entities incorporated in the FIZ pay the revenue tax via declaration as FIZ incorporated enterprise is not considered as tax agent in relation to salary paid by it and does not have to withhold tax at the source of payment.

## STATE REGULATION

The representative of the state authorities arrange the proper functioning of the FIZ and shall supervise FIZ and provide quality state services only to the companies established in the FIZ.

The services provided by the representations are based on “one window principle”. The state service (including registration of companies) may be provided in one of the following manners depending upon the proposal made by the Manager and approved by the Government of Georgia:

- Through a Service/Supervisory Authority – a public corporation – FIZ Agency (if this body is established, it shall be responsible for providing all sort of state services in the territory of FIZ, including registering the companies);

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to be an export operation for the purposes of the Tax Code of Georgia.

- Independent representations of the state organs located either inside or outside the FIZ;

FIZ shall have its own regulations (Charter) providing for the flexible and efficient system for dispute resolution such as international arbitration located at the FIZ. The arbitral tribunal shall be competent to hear the disputes involving FIZ incorporated entities. Nevertheless, any dispute can be subjected to the jurisdiction of state courts or international arbitration.

FIZ Charter may also determine the informal language to be used in the FIZ, which can be any language chosen by the Manager.

## SIMPLIFIED LICENSING/PERMITTING REGIME

Once carried out in FIZ some types of activities, which normally require license/permit are released from such restrictions. Hereby, some types of license/permit can be obtained by more simplified proceedings.

No license/permit is required<sup>6</sup> for the following activities carried out in FIZ:

- Producing or packing nourishment production for new born babies;
- Producing nourishment production for children;

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<sup>6</sup> Simplified regime applies to the building permission.

- Producing and/or distributing electric energy;
- Distributing and/or transportation of natural gas;
- Transiting production subordinated to the veterinary control;
- Operating dangerous producing building facilities;
- Local regular passenger transportation services;
- International shipments carried out by foreign carriers above the quota established under international agreement;
- Clinical examination and research of pharmacologic production;
- Producing pharmaceutical products, except for drugs;
- Establishing I or II group pharmacies;
- Importing non-iodized Salt.

- Industry development;
- **Future Project - Kulevi Free Industrial Zone – Socar Georgia Investments**
  - Approximately 500 million USD during 43 months;
  - Construction of factories and Industry development;
- **Future Project – Kutaisi Hualing Free Industrial Zone – Georgian Huashun International Industrial Investment Group LTD**
  - Estimate amount of investment - 150 million USD investment;
  - Industry development;

#### **FREE INDUSTRIAL ZONES IN GEORGIA<sup>7</sup>**

- **Poti Free Industrial Zone- RAKIA GEORGIA**
  - More than 400 million USD in 2009-2015;
  - More than 10 000 employees;
  - Development of industry, logistical parks and business centres;
- **Kutaisi Free Industrial Zone- Georgian International Holding**
  - More than 3 billion USD during 3 years;
  - More than 20 000 employees;

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<sup>7</sup> Information obtained from web-site of Ministry of Finance and Economy, Autonomous Republic of Ajara.

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