

Finanzwissenschaftliche Diskussionsbeiträge

Special Series



VolkswagenStiftung



Staatliche Universität Tbilissi

**Arbeitspapiere des Deutsch-Georgischen
Arbeitskreises für Finanz- und Sozialpolitik**

**Rights of Local Jurisdictions and Tax
Revenue Distribution in Georgia**

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No. G-6
2007

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Publisher:
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David Narmania

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September 2007

Mit den Finanzwissenschaftlichen Diskussionsbeiträgen werden Manuskripte von den Verfassern möglichen Interessenten in einer vorläufigen Fassung zugänglich gemacht. Für Inhalt und Verteilung sind die Autoren verantwortlich. Es wird gebeten, sich mit Anregungen und Kritik direkt an sie zu wenden und etwaige Zitate aus ihrer Arbeit vorher mit ihnen abzustimmen. Alle Rechte liegen bei den Verfassern.

ISSN 0948 - 7549

Rights of Local Jurisdictions and Tax Revenue Distribution in Georgia

Abstract:

This paper describes the administrative powers of local jurisdictions in Georgia, emphasizing on the tax competences and the abilities to mobilize other sources of income. Having listed and explained the types of revenues and incomes, the article continues to show their distribution among administrative levels according to the current tax code. Following a brief overview of the main laws underlying tax regulation, the existing problems of the status quo before 2007 and some perspectives for the immediate future are outlined

Key words:

fiscal policy, local jurisdictions, tax distribution, state and local budgets

JEL codes:

H1, H2, H7

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Rights of Local Jurisdictions and Tax Revenue Distribution in Georgia

David Narmania

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1. Introductory Remarks

After the adoption of the Constitution on August 24th, 1995 many issues were held within the framework of only one law, the so-called Organic Law, while the issue on administrative and territorial integrity of the country remained open. However, the Constitution implemented self-government bodies at the local level. In particular, the formation of territories and states as well as their functions has to be determined by future constitutional amendments after the complete restoration of the Georgian jurisdiction over the whole territory of the country. Matters of national importance have to be settled by self-government jurisdictions without violation of the sovereignty of the central state. The representatives of local self-governments and the heads of the executive authorities were determined by selection. The procedures of establishment of these bodies, their rights, obligations and relationships versus the central state authorities are to be regulated by the Organic Law.

2. The Current System

TERRITORIAL ADMINISTRATION

The territorial administration in Georgia is complexly formed. For the present, there are three types of regional entities:

Local Self-Government Bodies – established in the limits of villages, communities, settlements and towns that form part of a district/rayon. They are often called the first level. The local representative bodies – Sakrebulo – are elected through the proportional party system elections. The function of the executive government is performed by the Head of Sakrebulo.

Local Government Bodies – established in the limits of the district/rayon are often addressed as the second level. The elections of the local government representations are performed through the proportional party system. The heads of the local governments are appointed by the president.

In towns that are not part of a district/rayon, the government representatives are simultaneously embodied by the local self-governments and government bodies (noted as the second level, equal to the district/rayon). Representative bodies were elected through the proportional party system, while the executive bodies are appointed by the president.

It also has to be mentioned that there exists another entity of trustees appointed by the president, the regional governors, which are not represented in the relevant legislation. They have completely defined functions that partially overlap the district functions.

Taxes and local Budgets

The law of Georgia on “Budget System” identifies the following sources of incomes for the local budgets:

1. Revenues:
 - current tax revenues
 - current non-tax revenues
 - capital revenues
2. Grants received from domestic and foreign sources in cash.
3. Loans received from the state budget, from the budgets of the autonomous republics and as determined by this law.

All kinds of funds mobilized from budgets and state special funds can be distinguished into **source of revenue and deficit financing**. **Revenues** are divided into tax and non-tax revenues. **Tax revenues** are mobilized according to taxes specified in the law of the country (Tax Code of Georgia). Common state and local taxes may be distinguished according to the level of government.

- | | |
|--|---|
| <ul style="list-style-type: none">• Common State Taxes:- Income Tax- Profit Tax- Value Added Tax (VAT)- Excise- Social Tax | <ul style="list-style-type: none">• Local taxes:- Property tax- Gambling tax |
|--|---|

Non-tax revenues include the following groups:

- ▶ **Fees** – customs, licensing, permits, state certificates, registration fees, state expertise fees, state service fees and other fees (state fees).
- ▶ **Incomes received through the lease of the State property** – this source of income comprises revenues obtained from land rental, from leasing of the buildings/facilities, machinery and equipment.
- ▶ **Incomes from minor sales** – sales, whose value is hard to identify, e.g. selling of tickets, postal stamps and others.
- ▶ **Incomes generated by dividends and National Bank profits** – dividends obtained from state assets or through the state participatory enterprises and National Bank profits.
- ▶ **Royalties** – payments for the extraction and the use of natural resources, fees established for the use of copyrights, patents, models, trademarks, appliances of know-how, video/audio records and other similar rights.
- ▶ **Percentage on state loans, deposits and other bonds** – revenues obtained as the percentage rate from state credits and loans. This article does not imply the return of the baseline sum.
- ▶ **Incomes obtained from sanctions** – all incomes generated by sanctions and administrative fees, which are imposed due to violations of the administrative code.
- ▶ **Return of credits** – internal credit returns (on the separate levels of the governance, state enterprises, financial institutions, and other credits), international credit returns (credits to foreign governments and international organizations).
- ▶ **Other non-tax revenues** – this category implies all other types of non-tax revenues not included in the above articles.

The budget of any government level may have profit or deficit. Deficits are covered by an increase of state debt and the use of credit resources, as well as income gained from the privatization of state property according to state programs.

Sources of deficit financing:

- Foreign credits and loans
- Domestic credits and loans, like funds mobilized through the treasury liabilities
- Revenues received from privatization.

The Law of Georgia on the “Distribution of Tax, Non-tax and Capital Revenues among the Budgets” defines the general rules of funds distribution among the budgets of different levels. According to the law, property and gambling business taxes – generally local taxes shall – be fully paid to the budgets of local self-governments.

Tab.1: Distribution of the Common State and Local Taxes among the Budgets

Incomes	State budget	District/rayon budget	Municipal budget (not district)
Income tax		100.0	
Profit tax	100.0		
Value Added Tax			
mobilized by tax authorities of Georgia	100.0		
mobilized by tax authorities of autonomous republics	100.0		
imported products	100.0		
Excise			
on products realized on the territory of Georgia	100.0		
on imported commodities	100.0		
Customs duty	100.0		
Social tax	100.0		
Local taxes			
property tax			100.0
gambling business tax			100.0

As a result, the major incomes for the local self government budget are:

1. Tax revenues:

- property tax
- gambling business tax

2. Non-tax revenues:

- fees for issuing licenses for the outdoor trade
- fees for issuing licenses on outdoor advertising
- fees for issuing licenses for the use of public locations
- fees for issuing licenses on vehicle parking
- tender fees established by representative bodies of local self-governments
- state fees established by executive bodies of local self-governments
- fees for the lease of property and on land owned by local self-governments
- fees on the sale of property owned by local self-governments
- dividends received from enterprises established through the shareholders with the participation of self-governments.

Common state taxes can be adopted, modified or cancelled only after appropriate changes to the Tax Code. Local self-government bodies can adopt only those local taxes under their competences that are defined by the Tax Code within limited scopes. Imposing or cancelling local taxes can only be conducted after appropriate changes to the Tax Code. Local self-government bodies are responsible to send copies of the information on modification as well as normative acts to the Tax Department and relevant tax bodies.

Transfers from state budgets play a key role in the formation of budget revenues. According to the Organic Law on Local Self-Government and Government, the following issues are defined in relation to transfers:

There are three types of transfers: 1. compensatory transfers; 2. purpose-oriented transfers; 3. special transfers.

- According to the Organic Law, a special law defining the formula for the distribution of *compensatory transfers* must be adopted. No such law has been passed.
- *Purpose-oriented transfers* are funds transferred for financing delegated tasks.
- *Special transfers* are funds allocated in the case of natural disasters or other special cases.

Local self-governments have the granted right to own revenues, i.e. revenues, which local self-governments levy independently. Such revenues may stem from different sources (local taxes, local fees, revenues received from common state taxes, compensatory transfers, etc.), but these principles do not apply for purpose-oriented transfers. According to organic law, particular types of own revenues of local self-governments are spend according to the priorities of state governments. And the priorities are agreed upon at the regional level.

Powers are delegated to the regional governments and local self-government bodies of the cities not within the region under the Organic Law. Such delegated powers are listed in article 8, clause 1, of the law. Moreover, article 7, clause 2, specifies the powers delegated directly to the local self-governments.

While defining transfers in each local budget, negotiations are always carried out between the central authority and the local governments to avoid a misbalance in the local budgets. In such cases the government demonstrates scepticism regarding the volume of a misbalance in the local budget; therefore, it thoroughly checks the consolidated revenue sources and expenditures of the budgets of the regions and independent cities. Then, the central authority points out that the regional or local government has to increase revenues and/or decrease expenditures connected with the different types of separate revenues so that the amount of transfer is acceptable.

The structure and volume of budget revenues were completely modified by the changes made with the law on the “Budget System of Georgia” at the end of December 2004, by passing a new Tax Code and the law on “Distribution of Tax, Non-tax and Capital Revenues among the Budgets”. In particular, now only 7 taxes instead of 21 exist; rates and taxation objects of some taxes, as well as the mechanism of distribution between local and state budget changed. As the result of these changes the local self-government units only have low revenues making them more dependent on the central authority.

The revenues from taxes on gambling business have become the main revenue source for the local self-government units but most of them (especially small villages, communities and towns) do not have such kind of business at all within their boundaries. In particular, incomes received from selling lottery tickets or maintaining gambling tables and game-playing machines, cash-offices for gambling businesses, bingo and lotto, bonus games and games of system-electronic forms are objects to taxation on gambling business. There is no village, community and town in Georgia, where such form of gambling business exists, and accordingly, the budgets of these self-government units cannot generate any kind of income. This tax is a source of revenue only for Tbilisi and some other larger cities.

With regard to the non-tax revenues, their nature and objects of taxation have not been changed significantly. Considering the type of such revenue, the budgets of the self-government units are still dependent on these poor revenue sources. Such revenues are not applied on the territory level of most of self-government units so that they do not have an appropriate source of revenue at all.

3. Legal Overview

The Constitution of Georgia, adopted in August 24th 1995

The Constitution contains the most important information with regard to the local jurisdictions. It defines the rule of establishing the local self-governance and governance bodies.

Organic Law¹ of Georgia on “Self-governance and Governance”, October 16th 1997

The law identifies the principles and bases for establishing the local self-governances and governances, additionally specifies the exclusive and delegated competences, such as budget formation, approval, execution and control, imposing taxes or duties within the legislation of Georgia, etc.

Law of Georgia “Budgetary System of Georgia”, April 24th 2003

The law establishes the legal scheme of the budgetary principles and regulates the processes of the budget drafting, approval, execution, accounting and control. Additionally, the law defines the relationships and responsibilities among the central, autonomous and local authorities.

Law of Georgia “Tax Code of Georgia”, December 22nd, 2004

The tax code defines and establishes the tax system of Georgia, types of taxes, the rules and principles of tax imposition and termination, administration procedures for the tax payers, etc.

¹ Organic Law represents a specific type of normative act, which exercises higher powers than regular laws. The Constitution of Georgia states the specific spheres that are to be regulated through the Organic Laws and these are the areas of crucial importance to the State.

Law of Georgia on the “Distribution of Tax, Non-tax and Capital Revenues among the Budgets”, December 29th 2004

The law defines the rules of revenue distribution among the budgets of the state level, the Autonomous Republics of Abkhazia and Adjara and other territorial entities of Georgia. The revenues include tax, non-tax and capital revenues.

Law of Georgia “Property of the Local Self Government Entity”, March 15th 2005

The law defines the categories of the property owned by the local self-governances. Additionally, it imposes the rules for property ownership, excluding land and natural resources. The administration of such property is regulated by additional acts of Georgian legislation.

4. Existing Problems and Perspectives

EXISTING PROBLEMS

- The persons elected as the members of the local self-government bodies are not completely aware of their competences, responsibilities and functions. The problem can be considered as the lack of legislative understanding and experience.
- The instability of the legislative base; frequent changes and amendments to the legislation serve as foundation for the insufficient local representation. Members of the local governances and self-governances lack opportunities to be informed about the newly established modifications and to keep themselves updated on the current issues.
- The representatives of the executive bodies perform their activities ineffectively, which is caused by the harsh social-economic conditions and budget deficits.
- The central government often intervenes in the process of the local budget formation. It disturbs the independence of the local entities, creating financial problems and reducing their capacity.
- The country is still lacking an appropriate legislative base for local government regulation.
- The purpose-oriented transfer rates are not harmonized, which causes the local government or self-government bodies' budgets to be not properly balanced with regard to their tax or non-tax revenues.
- The state is still lacking a universal formula for targeting and balancing the transfers and mechanisms of distribution.
- It is insufficient to define the minimum level of the local budgets by the Organic Law on “Local Self-governances and Governances”. Most of the international experts state that this method is out-dated and does not coincide with the new principles of budget formation.
- The budget revenues and expenditures have to be classified and regulated.
- The reporting of the budget execution on the local level has to be modified and improved.
- The concept of “Local Budget” is not clearly defined. Accordingly, two different types of budgets: local self-government budgets (villages, communities, settlements and towns forming part of a district) and local governance budgets (regional budget) are united under the same title.

PERSPECTIVES

The government of Georgia has not yet established the basic pillars and priorities in the sphere of decentralization. Still, there have been some attempts, e.g. signing the EU Local Self-Government Charter on May 23rd, 2002. The charter established the requirements for Georgia to fulfil the prerequisites to become a member of the EU, like empowering local self governance and local governance units, developing municipal bodies, as well as concentrating and supporting the decentralization process. Up to now, steps have not been made towards reaching these objectives.

Despite the harsh debates, the government decided to group the existing territorial entities in Georgia into larger entities. The local self-government elections are planned for the fall of 2006. Automatically, the new organic law on “Self Government” will come into force after the results of the elections will have been published.

According to the new system, instead of the existent 998 territorial entities Georgia will be divided into 68 grouped entities – municipalities. Separate municipalities will conduct elections on their own. Additionally, those municipalities will have self-administered budgets starting January 2007 with their own sources of revenues.

The newly elected self governances will have the following exclusive authorities:

- Management of the property owned by the local self government entity.
- Management of the land resources owned by the local self government.
- Formation, approval, execution and control of local budgets, implementing amendments into the budgets.
- Imposition or abolition of taxes and fees, identification of the tax rate limits.
- Abolition of local taxes.
- Planning the land use, division of the land owned by the local self government, formation of recreation areas, etc.
- Management of water and forest resources.
- Supervision of the construction activities on the territory of the local self government entities, issuance of permits for the relevant activities.
- Regulation of local transportation.
- Regulation of external trade.
- Regulation of the outward advertisement.
- Setting of the utility standards, service rules; formation of the parking areas; coordinating the cleaning activities and maintenance of the utility services.
- Maintenance of the local roads, implementing construction and development activities.
- Implementing the activities in the sphere of culture, supporting and maintenance of the relevant activities (archive, libraries, museums, education, etc).
- Developing the pre-school education facilities, control over the activities.
- Establishing the development plans for the local self government entities, identification of the priorities and approval of the plans.
- Mobilizing resources and conducting activities in the sphere of healthcare and social assistance, support to raising the awareness among the population.
- Provision of the local self government entity with the fire department.
- Planning and administering the driving rules on the roads of local importance, excluding the international and state level roads.
- Regulation of the issues concerned with meetings and demonstrations within the legislation of Georgia.
- Performing the local procurements.
- Administering, numbering and entitling the streets and squares.

The newly elected governances will entail representatives and executive branches (on the local level). Representative bodies will represent the major policy-makers in the local self government; however the executive bodies are responsible for execution of the decisions made by the representative bodies. Representative bodies will be elected by the local population; therefore executive bodies are formed through competition.

As for the issues concerned with the property, finances and transfers, the government of Georgia has not yet prepared relevant legislative changes for regulating these spheres. Major changes are anticipated for the Georgian legislation in this regard.

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