



# REFORM OF REVENUE APPEALS

REPORT

FINAL

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USAID ECONOMIC PROSPERITY INITIATIVE (EPI)

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# DATA

Name of Component: Business Enabling Environment

Author: Peter Bruges

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Reviewed by:

David Koguashvili, Activity Manager

Chris Thompson, Component Lead

# ABSTRACT

The current system of revenue appeals in Georgia lacks transparency and creates uncertainty for taxpayers and investors. The development of revenue appeals policy forms part of overall modernization of tax administration.

The fundamental flaw in the existing appeals process is the lack of independence between policy setting and resolution. Appellants need to feel that their case has been dealt with in a just manner.

The approach to addressing the lack of independence was to provide key ministry staff with experience of other appeals models through a study tour and by analysis of options. Activity included joint development of a draft policy submission and making a presentation to the Minister of Finance and Revenue Service.

A decision has been made to reform the appeals process using one of the options provided. The policy paper was accompanied by analysis of pros and cons for the three main policy options.

The result, acknowledgement by the Minister of Finance of the need for reform and development of a submission to the Prime Minister. The minister instructed research European Union (EU) norms.

The implementation of an independent appeals process whether an independent tribunal or tax court will have a fundamental and positive impact on revenue appeals resolution.

# ABBREVIATIONS

EPI	Economic Prosperity Initiative
EU	European Union
ICT	Information and Communication Technology
IT	Information Technology
MoF	Ministry of Finance
RS	Revenue Service
SME	Small and Medium Enterprise
USAID	U.S Agency for International Development

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# I. EXECUTIVE SUMMARY

## 1.1 Key challenges

The shift to an independent system whether tribunal or tax court will represent a major step forward for the Government of Georgia and the impact will be profound. Gaining political acceptance of the need for change will be the single greatest challenge. The head of tax policy in the MoF is convinced of the need for change. However, government support for the reform is essential. While the overall need for reform is fully in line with government thinking, the ideal solution might provide an uncomfortable degree of transparency but there are ways of managing this issue. The topic of reform is politically sensitive and a clear strategy has yet to evolve.

While the Prime Minister has indicated a need for reform, policy consideration has not yet matured to the level of publicly stated options. One of the likely triggers for reform will be the political desire for accession to the EU. Addressing the lack of independence of the judicial systems will be a positive measure as this will most certainly come under scrutiny – even more so since some recent EU member states have failed to progress the independence of judiciary to the satisfaction of the EU policy makers. The key political decision is not which system appeals model but the desire for independence. Recently introduced arbitration has successfully reduced the number of appeals cases but the numbers are once again on the rise.

The change to an independent system will require legislation and the implementation of a tax court would also require constitutional change.

## 1.2 Key recommendations

- The revenue appeals process should be made independent.
- As a first step, implement a tribunal system as this is realistic and achievable by say January 1, 2013. Implementation of a Tax Court – a possible follow on option - is likely to take much longer due to the need for constitutional change and more rigid rules of procedure.
- The RS should continue the process of reviewing all appeals but this should be constrained within existing management structures. Ideally, this should be a quality review that includes consideration of new information provided by the taxpayer.
- The appeals council should be abolished and replaced by an effective internal review process in the RS with only policy cases being referred to the MoF.
- All requests for reconsideration or review of a tax decision that do not involve tax policy or interpretation of legislation should be handled solely by the RS. Referring review or appeals cases to the MoF that do not involve policy creates double handling and is of limited value.

- A new organizational structure – located outside the MoF and RS - will need to be developed along with support staff and ICT solutions, particularly for case handling and publication of rulings.
- Develop procedures for making appointments, remuneration, position descriptions, recruitment, and training of tribunal panel members or tax judges. Training will be required at the earliest opportunity.
- Tax legislation should be amended to allow for „best judgment’ assessments by tax auditors. The safeguard against abuse of such a provision will be the independent tribunal process.
- Taxpayer who appeals should be required to clearly state the grounds of appeal thus ensuring that nonappealable cases do not enter the appeals process.

### 1.3 The way forward

- The government will need to give early consideration of the options for reforming the tribunal system if an implementation date of January 1, 2013, is to be achieved. This is the earliest reasonable date for implementation of a new appeals model.
- Legislative amendments will need to be prepared and any possible conflict with the constitution identified and resolved.
- Tribunal panel members will need to be identified and trained as early as possible. The initial training may need to be performed abroad. Initially nine panel members and a tribunal chairman should be appointed. This key activity is likely to require project or donor assistance.
- Organizational structure, roles and responsibilities, ICT solutions, media, and communication will need to be established along with budget and financial framework.
- A project implementation plan is found in “Appendix D. Additional Information.” This plan is based on the assumption of a realistic January 1, 2013, implementation date. Given government pressure for reform the timeline may need to be shortened but whatever date is chosen the same tasks will need to be performed.
- Await the government adopted solution for follow-on action.

## **II. APPENDICES**

- A. BACKGROUND**
- B. POLICY OPTIONS**
- C. RECOMMENDATIONS**
- D. ADDITIONAL INFORMATION**

## A. BACKGROUND

Georgia has made significant effort in improving tax administration. Over the last several years, USAID provided considerable assistance to the MoF in designing and implementing reforms aiming to improve overall tax compliance. The initiatives included e-filing of tax returns, initial steps to implement risk-based audits, automation of tax lien filing, nonfilers, nonpayers business process, etc. The tax legal and regulatory framework was significantly streamlined and clarified, thus decreasing compliance burden for taxpayers and administration alike and increasing voluntary compliance. Return forms were significantly simplified for all taxes, reducing the number of pages, and eliminating redundant information requirements.

A new Revenue Code became effective from January 1, 2011. This code introduced, among other things, a different taxation regime for SMEs, the right for the Revenue Service (RS) to issue for a charge binding advisory opinions and tax rulings, and combined the tax and customs provisions into one code. Despite all these new developments, the tax administration is still following, to a large extent, an enforcement compliance approach versus voluntary compliance. Areas of particular concern include: a) enforced collection procedures and practices b) non-filer/non-payer control procedures c) tax declaration processing procedures and d) tax lien filing procedures.

In a previous USAID/ EPI report titled 'Assessment of Tax Administration System' dated April 2011, the revenue appeals process was identified as an area for reform. This report addresses the government's desire for reform of revenue appeals, defines the policy options, and sets out an implementation plan. A good number of appeals stem from the relative enormity of the amount after penalties are added, as opposed to the basis on which an assessment is formed. More fundamentally, this report addresses the fundamental flaw in the current system, which is the lack of indolence.

The number of tax appeals is impacted by the current draconian penalty regime, which needs to be rationalized, and penalties made more proportionate. High levels of penalty only encourage remittance of tax, penalty, and interest, which could give a competitive advantage to a particular taxpayer. Ironically, the monetary yield from penalties is lower than might be expected.

## B. POLICY OPTIONS

The MoF in consultation with EPI has narrowed the number of policy options for reform of the appeals system to three, viz:

1. The creation of an Independent Tribunal
2. The creation of Tax Courts; and by default
3. Retention of the existing appeals model

The rationale for the three policy options is set out in policy submission jointly prepared by the EPI project and the head of appeals policy in the MoF. The agreed draft is located in “Appendix D. Additional Information.” The pros and cons of each option are set out in a matrix which will be used to support a submission to the Minister of Finance and as required (see “Appendix D. Additional Information”).

The fundamental flaw in the existing appeals model is the lack of independence. The Minister of Finance is both policy master and head of the tribunal.

The recommended option for Georgia is an independent tribunal as it will be a better fit than a tax court although this option could be considered at a later date. The existing appeals procedure and that recommended are both informal despite the current appeals council consisting of 13 persons. It is proposed that the tax tribunal should consist of a three-member panel. This would be much more informal and taxpayer friendly. As with the current system, the decision of the tribunal panel would be final and enforceable, unless further appealed.

The safeguards of the proposed model are the increased accountability through the publication of rulings and the rights - of all parties - to appeal. Additionally, it is envisaged that appeals would proceed to the Appellate Court, bypassing the district courts. The lower courts – in common with many other countries – often do not understand the intricacies of tax cases, rulings can be perverse and contrary to law, and finally they often do not add value over a tribunal of skilled persons trained and experienced in tax appeals.

To support the policy options a PowerPoint presentation was devised that can be adapted to suit a particular audience. The complete presentation is located in “Appendix D. Additional Information.”

### POLICY ACTIVITY

The MoF established a working group to consider the options for reform of the appeals system. This group is headed by David Tomadze, the head of appeals policy. While the group had been established the basis for reform and options has not been fully thought through. Initial work centered on making changes to the existing familiar model, which is far from ideal.

Early policy discussion established the need for a wider experience of the options and best practice. The key missing component was the element of independence. The EPI project

supported a study tour to Finland and the United States where key policy developers could experience established models that have been tried and tested over many years yet have some procedural differences but all operate on the principle of independence.

This activity follows on from the study tour. It was agreed that the best practice dictated three policy options:

1. An independent (judicial) tribunal
2. A tax court
3. The existing system – do nothing

Naturally, any solution would need to fit the Georgia environment and culture to the extent possible without sacrificing basic principles. The existing system – the do nothing option was ruled out since the Prime Minister had already announced that there was a need for change. The policy options were developed using a matrix of pros and cons (see “Appendix D. Additional Information”).

The head of appeals policy was very much in favor of an appeals tribunal since this had some elements of the existing system and it could easily be implemented with the need for change to the constitution. A policy paper was developed (see “Appendix D. Additional Information”) that supports the tribunal option and that document is only intended as an internal document.

In parallel with the policy development a series of presentational slides were prepared (see “Appendix D. Additional Information”). The intention of the pack of slides is that they can be tailored to suit a particular audience.

At short notice a presentation to the Minister of Finance was requested. The agreed approach to this event was neutrality with a presentation of the distilled policy options. Initial impression of the presentation was that the only aspect that gained immediate traction was the EU dimension on Independences of the judiciary. However, the Minister later acknowledged that there were other options. A submission is to be made to the Prime Minister on or before August 20, 2011 when David Tomadze goes to the United States for a 10 months master course in tax administration. It is envisaged that there will be a later submission to the President.

The one point of detail which was a bit unexpected was the minister’s desire to know who and how the panel would be appointed. Naturally this depends on the finally chosen option but there is clear need to work up a proposed structure, organization, appointment and recruitment system.

## C. RECOMMENDATIONS

Recommendations made as a result of the policy activity are as follows:

- The revenue appeals process should be made independent.
- As a first step, implement a tribunal system as this is realistic and achievable by say January 1, 2013. Implementation of a Tax Court – a possible follow on option - is likely to take much longer due to the need for constitutional change and the more rigid rules of procedure.
- The RS should continue the process of reviewing all appeals but this should be constrained within existing management structures. Ideally, this should be a quality review that includes consideration of new information provided by the taxpayer.
- The appeals council should be abolished and replaced by an effective internal review process in the RS with only policy cases being referred to the MoF.
- All requests for reconsideration or review of a tax decision that do not involve tax policy or interpretation of legislation should be handled solely by the RS. Referring review or appeals cases to the MoF that do not involve policy creates double handling and is of limited value.
- A new organizational structure – located outside the MoF and RS - will need to be developed along with support staff and ICT solutions, particularly for case handling and publication of rulings.
- Develop procedures for making appointments, remuneration, position descriptions, recruitment, and training of tribunal panel members or tax judges. Training will be required at the earliest opportunity.
- Tax legislation should be amended to allow for „best judgment’ assessments by tax auditors. The safeguard against abuse of such a provision will be the independent tribunal process.
- Taxpayer who appeals should be required to clearly state the grounds of appeal thus ensuring that nonappealable cases do not enter the appeals process.

## **D. ADDITIONAL INFORMATION**

The PowerPoint presentation “Reform of Revenue Appeals” begins on following page.

**USAID** | **GEORGIA** | **EPI** Economic Prosperity Initiative 

**REFORM OF REVENUE APPEALS**

July 27, 2011

Peter Bruges  
Specialist Leader  
Deloitte Consulting LLP

and

David Tomadze  
Head of Appeals Policy  
Ministry of Finance  
Georgia

## REFORM OF REVENUE APPEALS

### The Study Tour

- Helsinki, Finland
- Massachusetts
- Washington D.C.

**The Study Tour**

**Finland**

Boards of Adjustments

➔

- Decentralized system of appeals
- Possibility of simple procedures
- Board members hold office for 5 years
- Hearings are held monthly
- Where facts of the case are unclear, the appeal is granted
- Principle of good faith applied
- No formal time-limit for the length of examination
- Problematic test cases are referred to the Courts
- Cases are published without disclosing names
- Parties share burden of proof
- There is no fee
- Hearings are closed

**The Study Tour**

**Massachusetts**

Appellate Tax Board

➔

- Centralized system of appeals
- Obligation to pay taxes halted unless negative decision by the Court
- No tax secrecy as soon as the case reaches ATB
- Term of Office 6 years appointed by the Governor of the State
- Financed by the State budget
- Burden of proof generally lies with the taxpayer
- Single member of the Board hears the case
- Time-limit for making a decision may be up to 6 months after submission of final briefs
- No requirement to summon the taxpayer during the hearing
- Possibility for small claims
- There may be a fee applied up to US\$ 5,000
- Hearings and decisions are public
- There is no free legal assistance available
- Decision of the ATB may become subject to appeal
- The ATB may advise that legislation requires amendment

## The Study Tour

Washington D.C.

The IRS – Office of Appeals  
Tax Court

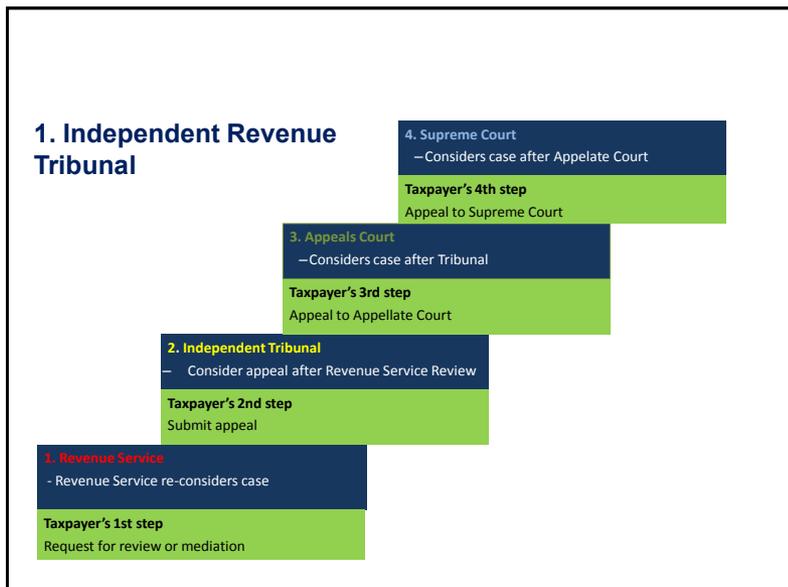


- Centralized system of appeals
- Core values independence and professionalism
- Burden of proof generally lies with the tax-payer (the IRS has to prove intent)
- Prohibition on raising new issues
- Clear procedure on communication with parties to the dispute
- Hearings and decisions are public
- Obligation to pay taxes halted unless negative decision by the Tax Court
- Taxpayer has to pay first if he goes to the District Court

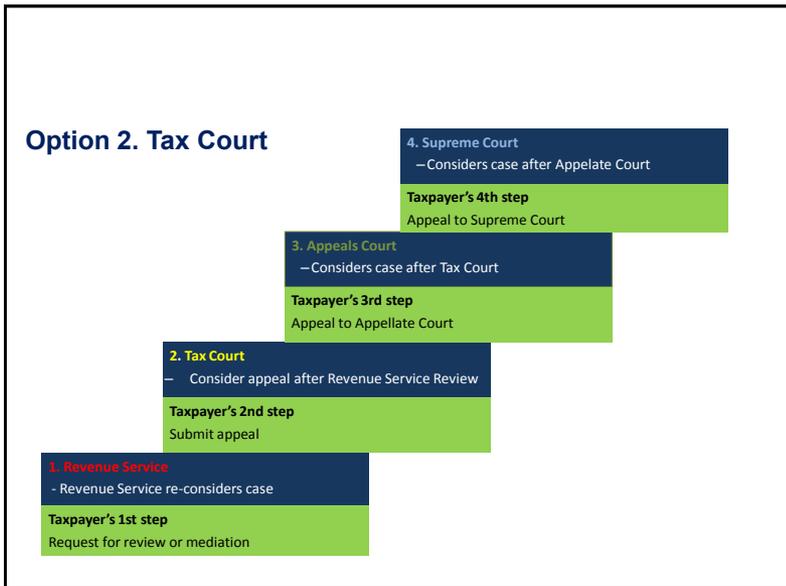
## REFORM OF REVENUE APPEALS

### OPTIONS

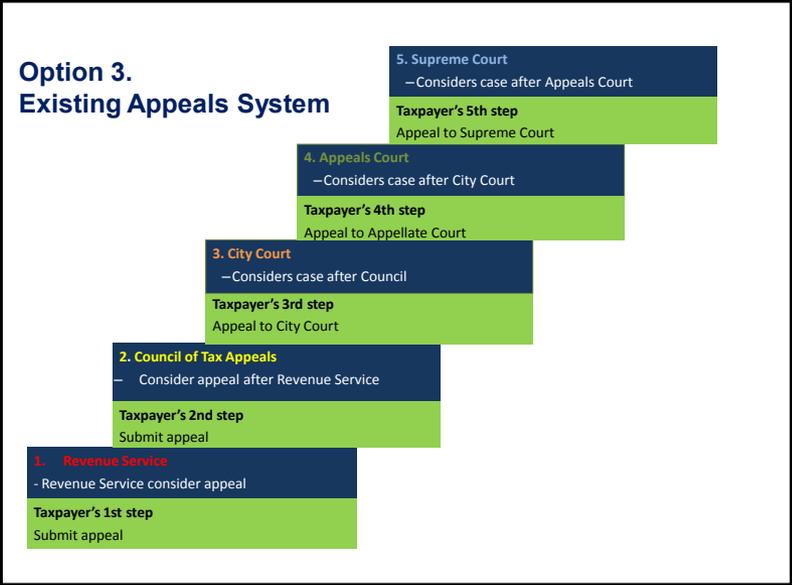
1. An Independent Revenue Tribunal
2. A Tax Court
3. The Existing System



- ### Option 1. Independent Revenue Tribunal
- Benefits of an Independent Tribunal**
- Taxpayers or their representatives can present their case in an informal setting.
  - By-passes lower court where the judges are unlikely to have the skills to deal with complex tax cases.
  - Truly independent yet accountable to higher courts for judgments.
  - Publicly accountable through published rulings which also serve as precedents.
  - Requires only a small panel of 3 experts: - lawyer (Chairman), an accountant and a lay business professional.
  - Rulings are final unless successfully appealed at Appeals Court by Taxpayer or Revenue Service



- ### Option 2. Tax Court
- Benefits of a Tax Court**
- Independent of policy makers and Revenue Service yet accountable before higher Courts
  - A single Judge may hear the case
  - Taxpayer and Revenue Service can appeal but all appeals on legislation or policy require Ministry of Finance approval
  - Rulings are published
  - Precedents will provide guidance to professionals and taxpayers
  - Revenue officials will be more inclined to adopt a professional approach
  - Higher standard of representation ensures that the interests of taxpayers are better protected
  - Greater time-limits will positively affect the quality of decisions



**Option 3. The Existing System**

**Benefits of the Existing System**

- Taxpayers or their representatives can present their case in an informal setting.
- Good communication between policy staff and Revenue Service
- People are accustomed to existing procedures
- Low cost since membership of the Council is not remunerated
- Length of most proceedings is not longer than 45 days

**Issues with the Existing System**

- The process is not truly independent
- RS may not appeal against the decision of the Council
- Tax secrecy provides taxpayer with cover for his actions
- In some instances short timelines might sacrifice quality of decisions

## REFORM OF REVENUE APPEALS

### An Independent Tribunal The Process

#### Option 1. Independent Revenue Tribunal

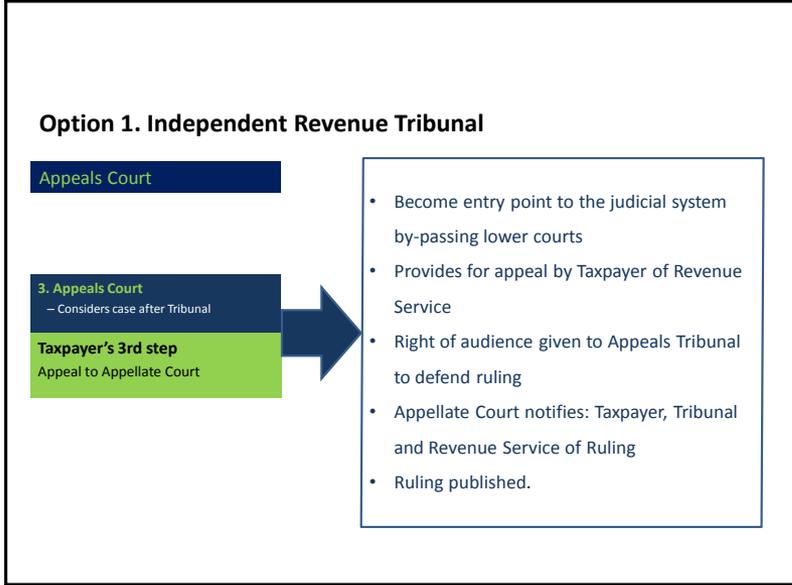
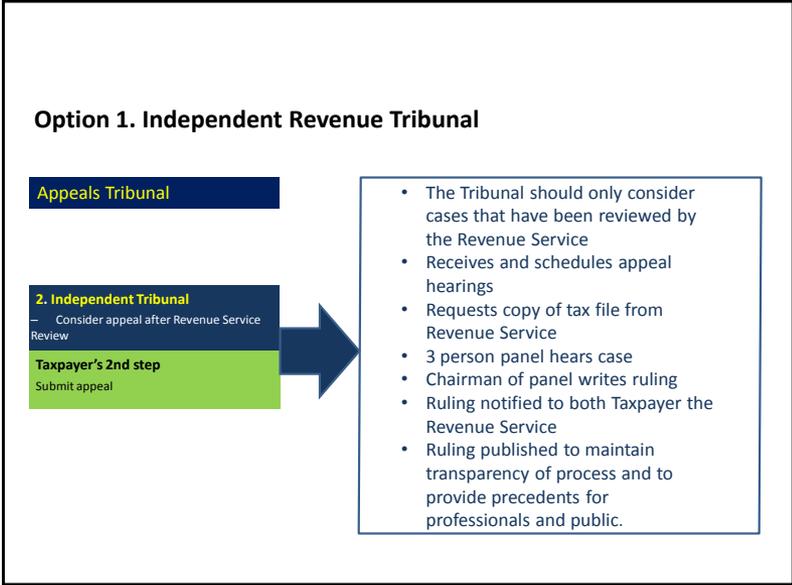
**Review Prior to Appeal**

**1. Revenue Service**  
- Revenue Service re-considers case

**Taxpayer's 1st step**  
Request for review or mediation



- The review process allows the tax administration to review the taxpayer's case and consider any new evidence.
- If a taxpayer or his representative approaches the Independent Tribunal direct before review of the case, the appeal should be referred to the Revenue Service and treated as a request for a review.
- Where policy is unclear or introduces a novel situation, the case should be referred to the Ministry of Finance for a decision.
- On completing the review the taxpayer should be informed by the RS of the outcome of the review and a new deadline for appeal should be set.
- Where mediation is appropriate, the RS can apply their discretionary powers (This needs to be in place until the penalty system is reviewed).



**Option 1. Independent Revenue Tribunal**



- Ultimate Revenue Appeals Court
- Right of audience for taxpayer's legal representative, and Revenue Service
- Right of audience for Appeals Tribunal
- Supreme Court publishes ruling

**Option 1 - Independent Revenue Tribunal**

**The Panel**



The Accountant



The Lawyer



The Businessman

### Roles of the Tribunal Members



#### **The Accountant**

Brings technical knowledge of accounting  
Able to decide whether accounts are reasonable



#### **The Lawyer**

Ensures that legislation is being correctly applied  
Prepares the Tribunal Ruling



#### **The Businessman (or Professional)**

Brings a business perspective and reality  
A number of tribunal cases stem from areas where judgment is required, e.g. levels of wastage

**Note:** The tribunal although informal makes a ruling based on legislation

## **DRAFT SUBMISSION TO MINISTER OF FINANCE FROM THE HEAD OF APPEALS POLICY**

Minister of Finance of Georgia

### **Reform of the Revenue Appeal System**

This paper considers the options for reforming the revenue appeals system and its application in Georgia. The options, based on research and international best practice, are:

1. The creation of an Independent Tribunal
2. The creation of Tax Courts; and by default
3. Retention of the existing appeals model.

Effectively option 3 is the do nothing option and it is far removed from the needs of a modern and developing state that has aspirations to align with accepted best practice and European norms. Accession to the EU requires candidate states to demonstrate progress towards judicial independence. While attempts can be made to modify the existing model it is fundamentally flawed due to the lack of independence. This effectively leaves two main options and the critical decision is which one fits with the Georgian environment. Annexed to this paper is a matrix setting out the pros and cons for each option (See “Appendix D. Additional Information”).

Options 1 and 2 require legislative change to introduce the necessary organizational functions and the policy premises on which the new system will be built. Realistically, the earliest anticipated date for introduction would be January 1, 2013. This will provide sufficient time for legislation to be fully considered and approved by parliament, to facilitate the transition to a new organizational structure, develop IT solutions (for case tracking and web services,) and vitally carry out training. Ideally, training should progress at the earliest opportunity.

Under options 1 and 2, it is anticipated that there will be greater transparency in the way that revenue appeals are handled. In transitioning to a new system, an opportunity arises to improve key legislative provisions that will enhance the treatment of revenue appeals process and at the same time reduce case numbers. For example, providing the RS with a provision to make what is termed „best judgment assessments”<sup>1</sup> is internationally recognized best practice. Such a provision will, in time, avoid ill-considered assessments and at the same time allow the RS scope to make assessments where evidence is often lacking. The constraint against abuse of such powers will be the tax tribunal and/ or courts that will

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<sup>1</sup> A best judgment assessment is an assessment by an authorized official to the best of his judgment after taking into account all relevant material, which he has gathered, applying his own intelligence deciding on the question of tax liability.

independently decide whether best judgment was exercised. Case precedents provide valuable guidance for the RS, taxpayers, and professionals.

Options 1 and 2 will introduce three novel aspects:

- Independence within a framework of accountability, since all decisions can be challenged by both parties to the dispute. The likelihood is that their independence will give rise to greater public acceptance.
- Transparency through making decisions public serves a number of purposes including, informing the professional and business community that represent taxpayers and openness of decision making that will reduce the number of unfounded appeals. Transparency can also guide policy makers into where changes to legislation would be beneficial.
- Precedents will be created by the revenue tribunal or court but the safeguard is that these will be subject to challenge or appeal. Precedents are particularly helpful in tax cases as a good number of cases have a common theme, particularly in cases where best judgment is required to determine an amount of tax due and payable. Without best judgment, it is often very difficult or impossible to quantify amounts of tax evaded where there is a paucity of evidence.

The absence of the provision to make best-judged assessments encourages or promotes inappropriate use of arbitration, which is in conflict with prime legislation and competitiveness in trade and service sectors. There will however be need for a provision to remit (or forgive) tax in a limited number of circumstances, such as being in the public interest or national importance. So creating a new appeals model can lead to overall improvements in dealing with the business community without undermining the needs of the State.

While Options 1 and 2 will both result in a satisfactory outcome, Option 1 is recommended at this time as the lowest cost option and most taxpayer friendly since proceedings will be informal but the outcome final, unless further appealed. This does not of course prevent adoption of Revenue Courts should this be considered better in the long term as was the case in the United States. The informality of the tribunal process allows the taxpayer to represent himself or to have assistance as required. For example in some instances, the taxpayer may decide that he would be best represented by an accountant. An informal tribunal format need only consist of a lawyer, an accountant, and lay business person who would provide a balanced view particularly in cases where best judgment is contested. This gives a tribunal a distinct advantage over tax courts which are normally staffed by judges trained only in law.

MoF policy makers must be able to appeal policy issues and the RS should be able to appeal the application of best judgment. At present the RS has no right of appeal but implementation of options 1 or 2 should provide the RS with powers to appeal best judgment since these will often not challenge policy but the techniques of making assessments.

The current council of 13 members and although there is no obvious budgetary implication, there is a lost opportunity cost to the budget in having far too many senior staff attend an

event that could be covered by only three persons. The weight of numbers cannot and should not affect decisions which are largely matters of law, judgment, and precedence. There will, however, be some cost in establishing a small suite of offices for a tribunal. It should be pointed out that establishing a tax court would also have a budgetary impact due to the increase in number of cases passing through the judicial system. With at least 3 panels in operation more cases can be processed without sacrificing quality.

Option 1 is favored because of its informal proceedings and low cost to the taxpayer. Option 2, while less favored due to the constraint of being placed in a judicial framework with more rigid application of procedures will require taxpayers to obtain legal representation. Additionally, courts chaired by a justice may require, for example, expert advice from an accountant. Many tax cases surround the amount of tax at issue and where accounting techniques, such as mark-up or cash reconciliation is used and lawyers are rarely skilled in such areas. The three-person Independent Tribunal structure encapsulates the elements of law, accounting, and business sense.

Submitted for consideration,

David Tomadze

## OPTIONS MATRIX

Appeals Model	Option 1		Option 2		Option 3	
	Independent Tribunal		Tax Court		Existing Model	
Features	Pros	Cons	Pros	Cons	Pros	Cons
Independence	<ul style="list-style-type: none"> <li>- Independent of policy makers and RS</li> <li>- Increased likelihood of public acceptance</li> <li>- Process aligned to best practice</li> </ul>		<ul style="list-style-type: none"> <li>- Independent of policy makers and RS</li> <li>- Increased likelihood of public acceptance</li> <li>- Process aligned to best practice</li> </ul>		<ul style="list-style-type: none"> <li>- Good communication between policy staff and RS staff, being part of the same Ministry</li> </ul>	<ul style="list-style-type: none"> <li>- Not independent as MoF is both policy and appeals body</li> <li>- Some members of council are accountable before the Minister of Finance which limits their independence</li> </ul>
Structure of Appeal Body	<ul style="list-style-type: none"> <li>- Each tribunal panel will consist of only three members</li> <li>- The proceeding will be informal</li> </ul>	<ul style="list-style-type: none"> <li>- A pool of full-time and part-time members will need to be established</li> </ul>	<ul style="list-style-type: none"> <li>- Existing court proceedings will apply</li> <li>- Increased likelihood of public acceptance</li> </ul>	<ul style="list-style-type: none"> <li>- Proceeding will be formal</li> <li>- Taxpayer will require representation</li> <li>- Specialist revenue division will need to be</li> </ul>		<ul style="list-style-type: none"> <li>- Council consists of 13 members who all have full-time jobs, sometimes making it difficult to have a quorum at hearings</li> </ul>

Appeals Model	Option 1		Option 2		Option 3	
				created		<ul style="list-style-type: none"> <li>- A member of the Council who leaves his appointed work position is suspended as a member of the Council, reducing the number of available members</li> </ul>
<b>Review</b>	<ul style="list-style-type: none"> <li>- Prior to appeal to a tribunal all cases will be referred to the RS to allow consideration of any new information and review original findings</li> <li>- Legislative and policy matters must be referred to the MoF</li> </ul>		<ul style="list-style-type: none"> <li>- Prior to court all cases will be referred to the RS to allow consideration of any new information and review original findings</li> <li>- Legislative and policy matters must be referred to the MoF</li> </ul>			<ul style="list-style-type: none"> <li>- There is no procedure allowing parties to establish areas of agreement or disagreement.</li> <li>- There is no formal link between appeals and tax settlement procedure</li> </ul>
<b>Burden of Proof</b>	<ul style="list-style-type: none"> <li>- Burden of proof will fall on the taxpayers</li> </ul>	<ul style="list-style-type: none"> <li>- changes will be required to place onus on taxpayer to contest best judgment assessments of</li> </ul>	<ul style="list-style-type: none"> <li>- Burden of proof will fall on the taxpayers</li> </ul>		<ul style="list-style-type: none"> <li>People are accustomed to existing procedures</li> </ul>	<ul style="list-style-type: none"> <li>It is unclear where the burden of proof lies.</li> </ul>

Appeals Model	Option 1		Option 2		Option 3	
		revenue - RS as well as Tribunal's apparatus staff will require training in the use of best judgment assessments				
<b>Accountability</b>	- Taxpayer and RS can appeal but all appeals on legislation or policy require MoF approval - Rulings are published	- Taxpayers may object to increased transparency	- Taxpayer and RS can appeal but all appeals on legislation or policy require MoF approval - Rulings are published	- Taxpayers may object to increased transparency but the risk outweighs the overall benefits and integrity of the system	- Where the Council grants the appeal, imposed taxes and penalties are immediately annulled	Neither RS nor the Ministry are able to appeal the decision of the Council, even if it contradicts policy or law
<b>Transparency</b>	- Precedents will provide guidance to professionals and taxpayers - Revenue officials will be more inclined to adopt a professional approach	- A cultural change	- Precedents will provide guidance to professionals and taxpayers - Revenue officials will be more inclined to adopt a professional approach	- A cultural change	- Tax secrecy provides a taxpayer with cover for his actions.	- Precedents are not easily available to guide professionals and taxpayers - Taxpayer can ask for arbitration that could provide a commercial advantage

Appeals Model	Option 1		Option 2		Option 3	
<b>Compliance Cost for Taxpayers</b>	<ul style="list-style-type: none"> <li>- Taxpayer can represent himself at tribunal or chose to have professional assistance</li> </ul>	<ul style="list-style-type: none"> <li>- Low standard of representation may negatively affect outcome of taxpayer’s case</li> </ul>	<p>Higher standard of representation ensures that the interests of taxpayers are better protected</p>	<ul style="list-style-type: none"> <li>- Higher cost for taxpayer</li> <li>- Taxpayers will be limited in choosing her/ his representative</li> </ul>	<ul style="list-style-type: none"> <li>- Taxpayer can represent himself at tribunal or chose to have professional assistance</li> </ul>	<ul style="list-style-type: none"> <li>- Low standard of representation may negatively affect outcome of taxpayer’s case</li> </ul>
<b>Costs and Savings</b>	<ul style="list-style-type: none"> <li>- Time savings as number of professionals on an appeals case panel will be reduced from 13 to 3</li> <li>- At least 3 panels will need to be established</li> </ul>	<ul style="list-style-type: none"> <li>- Will require establishment of a new body with budgets</li> <li>- Once off media and publicity campaign to support new process</li> <li>- Panel members will require training.</li> <li>- A case tracking system will be required</li> <li>- Rulings will require publication</li> <li>- The Tribunal will require administrative</li> </ul>		<ul style="list-style-type: none"> <li>Will require establishment of a dedicated division and additional budget for judges and premises</li> <li>- Once off media and publicity campaign to support new process</li> <li>- Judges will require training in tax case handling</li> </ul>	<p>State budget loses nothing since membership of the Council is not remunerated</p>	<p>Council consist of 13 busy people</p>

Appeals Model	Option 1		Option 2		Option 3	
		support				
<b>Length of Proceedings</b>	- Overall length of appeal will be reduced due to decreased number of bodies involved in dispute resolution		Greater time-limits will positively affect the quality of decisions	- Overall length of appeal may not reduce due to legal process	Length of most proceedings in the current model is no longer than 45 days	Short time-limits may affect the quality of decisions when important information or documents are not made available

## REVENUE APPEALS TRIBUNAL – IMPLEMENTATION PLAN

PREPARED JULY 2011

(STATUS – DRAFT)

<b>Implementation Plan</b>			
<b>Tasks</b>			
<b>Policy Development</b>	<b>Persons Involved</b>	<b>Target Date</b>	<b>Status</b>
- Assist with study tour	EPI Project	July 22, 2011	Completed
- Prepare policy paper	EPI/ Tomadze	July 22, 2011	1 <sup>st</sup> Draft Prepared
- Provide options matrix	EPI/ Tomadze	July 22, 2011	Completed
- Submit policy paper to Minister of Finance	Tomadze	July 30, 2011	Not yet submitted
- Prepare presentations on options	EPI/ Tomadze	July 30, 2011	Partially prepared
<b>Legislation</b>			
- Identify all legislative requirements	Tomadze/ EPI	Sep 30, 2011	
- Prepare legislation	Tomadze/ EPI	Oct 31, 2011	
- Submit draft to Minister	Tomadze	Nov 30, 2011	
- Briefing for minister	Tomadze/ EPI	Nov 30, 2011	
- Send draft to government			
- Q and A briefing for parliamentary debate	Tomadze/ EPI	Dec 31, 2011	
- Government forwards to parliament	Minister	Jan 31, 2012	
<b>Organizational Structure</b>			

- Prepare draft organizational structure	Tomadze/ EPI	Sep 30, 2011	
- Draft recruitment plan, terms of employment, and conditions	Tomadze	Sep 30, 2011	
- Prepare job descriptions			
- Appoint Tribunal Chairman	Tomadze/ EPI	Oct 31, 2011	
- Appoint Tribunal members	Minister of Finance	Nov 30, 2011	
	Minister of Finance	Dec 31, 2011	
<b>Establish Tribunal Premises</b>			
- Acquisition of offices	MoF	Mar 31, 2012	
- Purchase of office furnishings and equipment	Tribunal	Aug 31, 2012	
<b>ICT Infrastructure</b>			
- Develop Case management	EPI	Aug 31, 2012	
- Develop website	EPI	Sep 30, 2012	
- Procure IT hardware	Tribunal	Sep 30, 2012	
- Procure publication software	Tribunal	Sep 30, 2012	
<b>Training</b>			
- Conduct training needs analysis	Tomadze/ EPI	Sep 30, 2012	
- Prepare training program	Tomadze/ EPI	Nov 30, 2012	
- Train panel members	Tomadze/ EPI	Jun 30, 2012	
<b>Procedures</b>			
- Write case handling procedures in coordination with	Min Fin/ EPI	May 31, 2012	

RS - Develop standard forms and letters - Design format of tribunal ruling	Min Fin/ EPI  Min Fin/ EPI	Jun 30, 2012  Jun 30, 2012	
<b>Publications</b>			
- Prepare and publish a brochure for taxpayers setting out procedures in layman's terms - Publish forms for taxpayers	Min Fin/ EPI  Min Fin/ EPI	Sep 30, 2012  Sep 30, 2012	
<b>Implementation</b>			
- Develop cutover procedures with RS - Publish implementation date - Launch of Tribunal Service	Min Fin/ RS  Tribunal Tribunal/ EPI	Aug 31, 2012  Aug 31, 2012 Jan 1, 2013	
<b>Post Implementation Review</b>			
- Review of Appeals System - Publication of Review	EPI Tribunal	Dec 31, 2013 Mar 31, 2014	

**USAID Economic Prosperity Initiative (EPI)  
6 Samgebro St.**

**Tbilisi, Georgia**

**Phone: +995 32 43 89 24/25/26**

**Fax: +995 32 43 89 27**