

Bahrain VAT Executive Regulations

What you need
to know

December 2018





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Following the publication of the Value Added Tax Law (“VAT Law”) in October 2018, the Bahrain Ministry of Finance (“MoF”) has now released the VAT Executive Regulations. Responsibility for implementing and administering VAT in Bahrain will rest with the National Bureau for Taxation (NBT).

The Regulations provide further details on the application of the VAT Law that will take effect from 1 January 2019 including compliance matters, and the scope of the zero rating and exemptions described at a high-level in the VAT Law.

With very little time until the introduction of VAT, businesses must act now to comply with VAT from 1 January 2019.

We have set out below our analysis on some of the key areas of the Regulations and issues for businesses to consider.

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Introduction

The Regulations contain business-friendly provisions designed to minimise the burden of VAT on some taxpayers. Financial services will still be complex and the costs for the real estate sector are likely to increase due to irrecoverable VAT

Businesses have a very limited time to become VAT compliant before the go-live date of 1 January 2019. They should not underestimate the potential challenges associated with becoming VAT compliant. We recommend that businesses focus on being in a position to issue tax invoices from 1 January 2019 and to capture VAT on purchases and imports. Some aspects of a VAT implementation programme can be deferred until after 1 January 2019.

Transitional provisions have been announced which will phase in mandatory registration for VAT, with only very large businesses being required to register with effect from 1 January 2019. Businesses not exceeding the transitional mandatory registration threshold may still wish to register in order to recover VAT on purchases.

The Regulations contain certain business-friendly provisions aimed to reduce the burden of VAT on businesses and certain taxpayers including:

- Tax invoices being acceptable in Arabic or English. The requirement in Saudi Arabia to produce tax invoices solely in Arabic caused considerable difficulty for many businesses with standard ERP systems.
- The acceptance of a bank statement as a valid tax invoice, subject to some minor amendments. This will be welcomed by banks as this should reduce the burden to produce a separate tax invoice for bank accounts or to significantly adapt such statements to comply with the rules for standard tax invoices.

- Provisions allowing businesses to apply to defer the payment of VAT on imports of goods to their next tax return. This will be welcomed by large importers who may otherwise be in a regular VAT refund position.
- Provisions allowing businesses who export more than 50% of their turnover and who expect to be in a regular VAT refund position to request that the domestic reverse charge mechanism will apply on certain local purchases. This will reduce the cashflow burden of VAT refunds for these exporters.

VAT will still be complex for certain sectors, particularly financial services. As with most countries with VAT, banks and financial institutions will make both taxable and exempt supplies, and great care will be needed to compute the recoverable input tax correctly.

Businesses in the real estate sector will need to be mindful of potential VAT costs arising from the VAT exemption for sale and rent of property. VAT on management fees, repair and maintenance costs etc will not be recoverable. VAT incurred on site development works prior to the sale of land such as the installation of roads and utilities will also not generally be recoverable.

The zero rate on the construction of new buildings does not apply to all costs. Certain costs such as architects' and interior design fees, landscaping and demolition will not qualify for zero rating. Those intending to sell or lease property after construction will incur a VAT cost as they will not be able to recover the VAT on standard rated supplies on building contracts.



Main highlights

- The mandatory VAT registration threshold is BHD 37,500 and the voluntary registration threshold is BHD 18,750. Registration has begun on the NBT's website. Only businesses with turnover exceeding BHD 5 million are required to register with effect from 1 January 2019.
- Large businesses will file tax returns on a monthly basis and all other businesses will file quarterly. However, for 2019, registered businesses will have only three or four tax periods, depending on turnover. Tax returns will be due on the last day following the month of the end of the tax period and the associated tax will be payable on that day also.
- VAT on imported goods will be payable to Customs prior to the release of the goods. VAT registered importers may apply for the deferral of import VAT, subject to meeting certain conditions. The Regulations also refer to transitional rules for 2019 for collecting VAT due on imports of goods, but no details have yet been provided.
- Exporters meeting certain conditions may apply for a domestic reverse charge on certain supplies received from taxable persons in Bahrain. This would result in cashflow savings for such businesses.
- Further details are provided on the exemption for financial services. Life insurance, transfers of equity and debt securities will be exempt. General insurance and all other services where there is an explicit fee will be taxable at the 5% rate.
- The zero rating for new buildings applies to construction services and certain goods and services supplied as part of the construction contract. Certain goods and services will not qualify for the zero rate and will be taxable at the 5% rate.
- For telecommunications and electronic services, if the customer is not a registered person, the place of supply is determined by the place of use and enjoyment of the services, at the date of supply.
- Non-residents may appoint a tax representative for all their tax related requirements and duties in Bahrain. Residents may appoint a tax agent.
- Special refund schemes will be put in place for foreign governments, international organisations, diplomatic missions and institutions, consular and military bodies, tourists and non-resident businesses (from Implementing States and from outside the Implementing States).
- A separate Ministerial Decision is expected to list the GCC States that Bahrain will recognise as Implementing States, and those not on the list will be assumed to be non-GCC States for the purposes of VAT. Until a Ministerial Decision on this is issued, all GCC States will be considered as non-GCC States for the purposes of VAT. To date, neither Saudi Arabia nor the UAE has recognised the other as an Implementing State.

Snapshot of VAT rates in Bahrain

Examples of standard rated (5%) supplies	Supplies that are zero rated	Exempt supplies	Operations outside the scope of VAT
Financial services provided for a fee, commission or discount	Exports of goods and services	Financial services where the consideration is an implicit margin	Penalty and indemnity payments (e.g. penalty for late delivery, indemnity to compensate a loss)
Hotels, car parking for less than a month	Services of construction of new buildings and certain goods supplied during construction	Life insurance and life reinsurance services as well as the transfer of such contracts	Deposits which are not used as part of a consideration for a taxable supply
Refurbishment of existing buildings	Educational services and certain related goods and services supplied by an educational institution	Sale and lease of real estate (residential, commercial and bare land)	Transactions between entities forming a Tax Group (where an application for tax grouping has been approved by NBT)
Cosmetic surgery and alternative medicine	Health care services and certain associated goods and services		Transactions between a head office and its branch(es)
Supply of food by restaurants, coffee shops or caterers	Supply and import of certain basic food items		Supplies made by government bodies in their sovereign capacity
General insurance and reinsurance	<ul style="list-style-type: none"> Local transportation of goods and passengers International transportation of goods and passengers, and related services Supplies of international means of transport and related repair and maintenance services 		



Compliance obligations

VAT registration

At a glance

- The mandatory VAT registration threshold is BHD 37,500 and the voluntary registration threshold is BHD 18,750
- Transitional mandatory registration thresholds have been introduced for 2019

As expected, and in line with the position in KSA and the UAE, the mandatory VAT registration threshold is BHD 37,500 and the voluntary registration threshold is BHD 18,750. As an anti-avoidance measure, the NBT has the power to automatically register a business if that business does not register by the required date. This can also apply where the turnover of related parties has been artificially split to avoid VAT registration.

The MoF has announced transitional mandatory registration provisions for residents to be phased in during 2019. The table below sets out the mandatory registration thresholds, the applicable periods and the dates for registration. Businesses with taxable supplies exceeding the voluntary registration threshold of BD 18,750 may register during the transitional period.

The transitional rules do not apply to non-resident businesses who are required to register for VAT once they make taxable supplies in Bahrain on which they are required to account for VAT. Essentially, these should be non-residents who are making supplies in Bahrain to customers who are not registered for VAT.

While a higher threshold for a transitional period gives businesses falling below the threshold (possibly small to medium sized businesses) more time to prepare for VAT, deferral of registration is likely to result in additional costs as these businesses would not be able to reclaim the VAT charged on their costs as long as they remain unregistered. Such businesses will need to carefully consider the advantages and disadvantages of deferring registration.

Next steps

- Confirm your annual and expected turnover so that your business is ready to act when further details are released
- If a higher mandatory registration threshold is applied for a transitional period, assess whether it is preferential to wait until registration becomes mandatory or whether to register voluntarily

Transitional mandatory registration thresholds

	Transitional period 1	Transitional period 2	From 1 January 2020
Deadline for registration	20 December 2018	20 June 2019	20 December 2019
Effective date of registration	1 January 2019	1 July 2019	1 January 2020
Mandatory registration threshold	> BHD 5 million	> BHD 500,000	> BHD 37,500



Tax invoices

At a glance

- A tax invoice must be issued for all supplies made in Bahrain by a taxable person
- Invoices can be in Arabic or English
- No requirement to include the VAT number of the customer
- Simplified tax invoices can be issued for a supply with a consideration that does not exceed BHD 500
- Bank statements can qualify as tax invoices, subject to meeting certain requirements

General requirements

A tax invoice must be issued when a supply of goods or services is made by a person that is VAT registered. The Regulations list what should be on a tax invoice in order for it to be valid. Unlike KSA, there is no requirement for invoices to be issued in Arabic. Suppliers will not need to include their customer's VAT registration number on the invoice, unlike in the UAE.

Where a taxable person issues a copy of an original tax invoice, the statement "Duplicate of original" must be shown. A VAT registered business can only recover input tax if it has an original tax invoice. Businesses will need to consider the practical implications of this and ensure that they hold the original tax invoice for each purchase on which they intend to recover VAT.

A tax invoice must include all of the following:

The words "Tax invoice" clearly stated	Name, address and TRN of the supplier	Name and address of the customer	Date of issue of the tax invoice and date of supply, if different
Sequential invoice number	Description and quantity of the goods or services	Value of the supply in BHD with unit price exclusive of VAT	Value of discounts, if any, and net value in BHD
Rate and amount of VAT	Total amount due on the supply inclusive of VAT in BHD	Exchange rate used, if any	Reference if profit margin was used or if the supply is exempt from VAT

Tax invoices must be issued for all supplies made in Bahrain, including deemed supplies. Unlike the UAE, there is a requirement to issue tax invoices for zero rated supplies and for exempt supplies.

Bank statements

A bank statement will be treated as a tax invoice if it contains the following information:

1. Name, address and VAT registration number of the bank
2. Name and address of the customer
3. Date of the bank statement
4. The tax rate applicable on each supply on the statement
5. The amount of tax on the supply

This should significantly reduce compliance obligations for banks as it minimises the changes required for bank statements to comply with requirements for tax invoices, specifically by eliminating the requirement to total the supplies subject to VAT and the tax amount.

In accordance with the Law, where a tax invoice is denominated in a currency other than Bahraini Dinars, it must display the Bahraini Dinar equivalent using the foreign exchange rate published by the Central Bank of Bahrain at the date the supply was made.

Tax invoices

Simplified tax invoice

A taxable person may issue a simplified tax invoice where:

1. The recipient of the supply is not registered for VAT in Bahrain; or
2. The total consideration of the supply does not exceed BHD 500.

A simplified tax invoice requires less information than a full tax invoice and reduces the burden of producing invoices for businesses including those whose customers are primarily unregistered persons (e.g. supermarkets). A simplified tax invoice does not have to contain information on the purchaser.

The information that should be included on a simplified invoice is:

- Name, address and TRN of the supplier
- Date of issue of the simplified tax invoice
- Description of the goods or services
- Total value of the supply in BHD inclusive of Tax
- Rate and amount of Tax payable in BHD



Tax returns

At a glance

- Transitional rules for 2019:
 - a. Quarterly filing for businesses registered by 1 January 2019 with turnover exceeding BHD 5m
 - b. The first VAT period for all other businesses will end on 30 June with the remaining VAT periods for 2019 being 30 September and 31 December 2019
- From 2020, businesses with turnover exceeding BHD 3m will file on a monthly basis. All other businesses will file on a quarterly basis, but may request monthly filing
- The return is due by the last day of the month following the end of the VAT period. The tax is payable on that date

The NBT may change the tax period for some businesses, but must notify the taxpayer at least three months before the effective date of the new tax period.

Snapshot of 2019 tax periods

Turnover threshold	Tax periods for the year 2019
Taxable persons with annual supplies exceeding BHD 5m whose registration for VAT is effective on 1 January 2019	<i>Quarterly basis:</i> <ul style="list-style-type: none">• 1 January 2019 to 31 March 2019• 1 April 2019 to 30 June 2019• 1 July 2019 to 30 September 2019• 1 October 2019 to 31 December 2019
Taxable persons with annual supplies not exceeding BHD 5m whose registration for VAT is effective on 1 January 2019	<ul style="list-style-type: none">• 1 January 2019 to 30 June 2019• 1 July 2019 to 30 September 2019• 1 October 2019 to 31 December 2019
Taxable persons whose registration for VAT is effective after 1 January 2019 but before 1 July 2019, regardless of the value of their annual supplies	<ul style="list-style-type: none">• From effective date of registration to 30 June 2019• 1 July 2019 to 30 September 2019• 1 October 2019 to 31 December 2019
Taxable persons whose registration for VAT is effective on or after 1 July 2019 but before 1 October 2019, regardless of the value of their annual supplies	<ul style="list-style-type: none">• From effective date of registration to 30 September 2019• 1 October 2019 to 31 December 2019
Taxable persons whose registration for VAT is effective on or after 1 October 2019 but before 31 December 2019, regardless of the value of their annual supplies.	<ul style="list-style-type: none">• From effective date of registration to 31 December 2019

Frequency of filing

As a transitional measure for 2019, tax returns will be due on a quarterly calendar basis for businesses with annual turnover exceeding BHD 5m and who have been registered for VAT on 1 January 2019. All other businesses registered by 1 January 2019 will submit three tax returns for 2019: a six month return for 1 January to 30 June and two quarterly returns (for periods ending 30 September and 31 December).

Filing for all businesses who register after 1 January 2019 will be based on three tax periods, i.e. for the periods ending 30 June, 30 September and 31 December, regardless of their annual turnover. The first return will be from the date of registration until the end of the relevant period.

From 1 January 2020, businesses with annual supplies of more than BHD 3m will file a tax return on a monthly basis. All other businesses will file on a calendar quarterly basis, but may apply to file on a monthly basis, subject to the NBT's approval.

Tax returns

Format, content and filing date

The Regulations do not set out the format of the tax return. It is expected however that the tax return will be similar to those in KSA and the UAE.

The Regulations provide that, at the minimum, the following information will be required on the tax return:

Value of standard rated taxable supplies and the amount of tax due relating to the tax period for which the tax return is submitted	Value of zero rated taxable supplies relating to the tax period for which the tax return is submitted	Value of goods and services supplied to the taxable person for which he is required to pay tax	Amount of tax due on import for which payment has been deferred unto the tax return
Value of additional tax due if any adjustments take place	Total value of tax due for the tax period	Total value of inputs of the taxable person and total value of recoverable input tax, relating to the tax period for which the tax return is submitted	The amount of the net refundable tax from previous periods
The amount of deductible tax relating to imports	Value of any excess tax recovered resulting from an adjustment related to a discount	Total amount of deductible tax relating to the tax period for which the tax return is submitted	Total amount of tax due or refundable for the tax period

The filing and payment date for a tax return is the last day of the month following the tax period for which the return is due. Where that date is a non-business day, it will be due on the next business day. Tax due is payable on the same day.



Next steps

- Determine the tax periods for your business based on the rules in the Regulations
- Ensure that your ERP system is capable of capturing all of the data needed to produce a tax return
- Ensure that you have procedures in place to validate that all tax invoices received contain all the mandatory information

Input tax recovery

At a glance

- Businesses will need to apportion input tax where the related purchases are for making taxable and exempt supplies
- Recovery of VAT charged on expenses incurred for personal or recreational use, or free of charge (except where required by law) including motor vehicle expenses, is blocked
- Input tax on motor vehicle expenses relating to personal use is blocked. Apportionment is necessary where a vehicle is used for business and personal use. Input tax is fully deductible for some vehicles
- A decision of the CEO of the NBT will provide guidance on the portion of recoverable input tax for motor vehicles used for both business and personal uses
- There is a capital assets scheme which requires businesses to monitor the use of their capital assets over their VAT lifetime (five years for moveable tangible and intangible assets, ten years for immovable tangible assets) and adjust associated input tax if the use of these assets changes during this lifetime

Where a taxable person is required to apportion the recovery of its input tax on his residual expenses, the standard apportionment method is based on a formula as follows:

$$\frac{\text{Total of taxable supplies}}{\text{Total taxable supplies} + \text{exempt supplies}}$$

The following should not be included in the ratio:

- The value of capital assets disposed
- Incidental supplies which are not part of the core activity of the person
- Supplies from a fixed establishment located outside Bahrain
- Transactions outside the scope of VAT (e.g. dividends, indemnity payment received).

Initially, the formula is applied for each tax period (monthly, quarterly as the case may be) based on the supplies made during that period. At the end of each year, the formula is applied for the entire year and, if the recomputed amount differs from the total for each tax period, an adjustment should be made on the tax return for the last tax period of the year or the tax return for the first tax period of the following year.

The Regulations allow taxable persons to apply to the NBT to use a special apportionment method when the standard method does not reflect the recovery position in a fair and reasonable way.

Similarly, NBT can direct a taxable person to apply a special method when the Bureau believes that the standard method is not appropriate.

The time limit to recover input tax is five years after the end of the calendar year in which all conditions for input tax recovery were met.

General rule

A summary of the rules relating to input tax recovery is as follows:

Input tax attributable...	Claimable?
1 ...exclusively and directly to supplies that grant deduction (e.g. supplies at 5%, zero rate)	In full
2 ...exclusively and directly to supplies that do not grant deduction (e.g. exempt financial services, supply of real estate)	Not claimable
3 ...to both supplies that grant deduction and those that do not (e.g. supplies of taxable and exempt financial services)	Proportion claimable

Input tax recovery

Blocked input tax

Under the Law, input tax cannot be claimed in respect of:

- Goods and services used other than for the purposes of a taxable person's economic activity
- Goods that cannot legally be traded in Bahrain
- Goods and services used to make exempt supplies

The Regulations specify additional items in respect of which input tax cannot be claimed:

- Recreational expenses such as hospitality and accommodation, food and drink, where this is not provided in the ordinary course of business
- Events, functions and trips for recreational purposes
- Goods and services provided free of charge for personal use

Where goods or services are provided to an employee free of charge, the related input tax can be claimed where the employer is obliged to provide the goods or services under a Bahraini Law. Hence, input tax should be claimable by an employer in respect of health insurance for employees as it is a labour law requirement to provide this for employees.

The Regulations also block input VAT on vehicles provided to an employee to the extent of personal use. Input VAT on related costs such as maintenance, repair and insurance is also blocked to the same extent. The Regulations state that the conditions for deducting input tax on vehicles will be determined by a decision of the Chief Executive Officer of the NBT.

This is a welcome move as it will ensure taxable persons only recover the right portion of input tax that is attributable to the business use and accordingly reduce the risk of non-compliance with the VAT legislation.

The Regulations specify that input tax recovery on the following vehicles will not be restricted (subject to meeting the usual conditions for deduction):

-
- Vehicles rented by car hire companies
 - Taxis and buses licensed by the Ministry of Transportation and Communication
 - Emergency vehicles such as police cars, fire engines and ambulances
 - Buses, trucks, cranes and similar vehicles that can only be used for business purposes
-



Input tax recovery

Capital assets scheme

A business can claim input tax when it purchases a new capital asset, subject to the usual rules for claiming input tax. The input tax can be claimed all at once, rather than over a period of time (such as the useful life of the asset). However, under the capital assets scheme described in the Regulations, a taxable person must adjust the input tax initially recovered on a capital asset where the use of that capital asset, over a certain period, differs from its initial or intended use.

“Capital assets” are tangible or intangible assets which form part of the assets of the business and are assigned for long term use as a business instrument or as a means of investment. The Regulations require a business to monitor the use of capital assets during the following periods:

- For movable tangible capital assets and intangible capital assets: five years from the year of first use
- For immovable tangible capital assets: ten years from the year of first use

Where, during the adjustment period, there is a change in use of an asset affecting the associated deductible input tax (e.g. an asset used exclusively to make taxable supplies is now used partially to make exempt supplies), an adjustment must be made to the input tax originally claimed in respect of that asset. Where an asset is sold during the adjustment period, the input tax claimed will also need to be adjusted in accordance with the VAT treatment of this final sale, where required.

The Regulations explain the mechanism for computing the input tax adjustment and provide the formulae to be applied.

An adjustment under the capital asset scheme must be carried out annually. Any adjustments arising must be reported in the tax return for the last tax period of the relevant tax year or in the tax return for the first tax period of the following tax year.

Next steps

- VAT registered businesses need to put procedures in place to ensure that they can distinguish between deductible input VAT and costs with fully or partially blocked input tax
- Where taxable and exempt supplies are made, procedures should be in place to be able to compute deductible input tax. Consideration should be given as to whether an alternative apportionment method may be suitable.
- Procedures to monitor the use of capital assets should be put in place in order to adjust input tax in accordance with the capital assets scheme



Recordkeeping

At a glance

- Business records must be maintained by a taxable person (or his tax representative) for a specified period of time either in paper or electronic form
- A person who ceases to carry out taxable activities must maintain records related to the period his business was operational in accordance with record keeping requirements for VAT purposes (i.e. format, retention period, etc)
- Business records must be maintained for a minimum of 12 months in case of bankruptcy or insolvency

A taxable person, or his tax representative (where applicable) must maintain business records that evidence his supplies. These records may be in Arabic or English and may be maintained in an electronic form provided that they can be produced in a paper format, and in a chronological and sequential manner.

The following are examples of records that should be maintained by a taxable person for VAT purposes:

- Accounting books related to the taxable person's transactions (the transactions must be maintained in chronological order)
- Records of all supplies and imports of goods and services
- Balance sheet and profit and loss accounts
- Wage and salary records
- Fixed assets (capital assets) records

Where a taxable person maintains records electronically, the following conditions have to be met:

- The records must be easily accessible from the electronic device
- The records can be maintained electronically or in hard copy
- The records are free from any damages or manipulation

The records must be kept for the following period:

- For five years after the end of the tax period to which they relate
- For capital assets, for five years after the end of the tax period in which the adjustment period of these assets ends
- For real estate assets, for 15 years after the end of the tax period to which they relate

Before the expiration of the periods mentioned above, the NBT may require the person to retain the records for a further period not exceeding five years.



Imports and exports of goods and services

Imports and exports of goods and services

At a glance

- The default rule is that VAT will be payable at Customs prior to the release of goods
- The Regulations refer to transitional rules for 2019 where the NBT will define procedures for collecting VAT due on imports of goods; no such procedures have yet been published
- Importers who are VAT registered may apply for deferral of import VAT, subject to meeting certain conditions

Imports

Under the Law and Regulations, VAT will be payable at Customs on imports. Importers, or their clearing agents, will be required to pay the VAT prior to the release of imported goods from Customs.

The Regulations refer to a transitional period of one year for imports, i.e. from 1 January 2019 to 31 December 2019. VAT on such imports will be collected under procedures to be set by the NBT. No procedures have yet been released and it is not clear what procedures will be put in place. It is possible that VAT on imports by VAT registered persons may be deferred, with the tax being payable with the tax return for the tax period the import took place. For importers who can claim full input tax on their exports, this would eliminate the cash flow cost associated with imports. For those who can claim partial input tax, there would still be some cash flow benefit.

Deferral of import VAT

Under the Law, on receipt of an application, the NBT may allow a VAT registered importer to defer payment of VAT. The Regulations specify the conditions that must be met in order for the Bureau to approve an application:

- The importer must be registered for VAT and with the Customs authorities in Bahrain
- The importer must maintain records and documents which enable the NBT to verify the import procedures and the correctness of the calculation of the Tax due, and these must be provided to the NBT or Customs when asked

- The importer must cooperate and comply with any requests made by the NBT in relation to imports

Under the deferral mechanism, the importer will show output tax due on the import in the tax return covering the tax period during which the import took place. The importer, if entitled to do so, will also claim input tax on that tax return, resulting in no net VAT payable, if the input tax is fully deductible.

The deferral mechanism would result in potentially significant cash flow savings for businesses importing substantial quantities of goods.

VAT exemptions on import

The following imports of goods, that are exempt from customs duty, will also be exempt from tax:

- Imports of personal baggage and used household items brought by citizens residing abroad and foreigners arriving to reside in Bahrain
- Imports of gifts accompanying travellers
- Imports into Bahrain of returned Goods previously exported
- Goods imported by military forces, internal security forces and security bodies operating in Bahrain
- Goods imported under diplomatic or consular arrangements
- Import of necessities and equipment used by persons with special needs, under specific conditions

Further, goods will not be considered as imported into Bahrain for VAT purposes where they are placed under a customs duty suspension regime upon their arrival, in accordance with the Customs Law.

Exports of goods

The export of goods from a place in Bahrain to a place outside the territory of the Implementing States (effectively outside Bahrain until other GCC countries are treated as Implementing States) is subject to VAT at the 0% rate, subject to conditions which are aligned with general VAT practice.

Imports and exports of goods and services

Domestic reverse charge for exporters

Exporters meeting certain conditions may apply for a domestic reverse charge on certain supplies received from taxable persons in Bahrain.

The Regulations set out details on how a business can apply for this which includes the following steps:

- The exporter must submit an application to the NBT using a form prepared by the NBT
- Once the NBT has approved the application, a certificate will be issued to the taxable person granting him the right to apply the domestic reverse charge mechanism on certain purchases

Once approved, the exporter will be able to apply the domestic reverse charge mechanism on certain purchases. This will have a significant positive cash flow impact for export businesses that are expected to regularly be in a VAT refundable position.

Imports and exports of services

Generally speaking, a taxable person who receives services from outside Bahrain will be required to account for VAT on such services under the reverse charge mechanism. The recipient will self-account for VAT on the value of the services received, and may also claim input tax to the extent permissible. If the services are used for making fully taxable supplies, no net cost or cash flow issue should arise.

Exports of services by a taxable person in Bahrain will be subject to the zero rate where certain conditions, as specified in the Regulations, apply including:

- The services are supplied to a person who does not have a place of residence in Bahrain and who was outside Bahrain when the services were provided
- The services relate to tangible goods or real estate located outside Bahrain when the services were provided
- The services are performed outside Bahrain
- The services are enjoyed outside Bahrain

Intra-GCC Supplies

In line with the Framework, the Law and Regulations contain provisions dealing with “Intra-GCC Supplies”, i.e. supplies from a taxable person in one Implementing State to another person in another Implementing State. These provisions will not be operable until VAT implementing GCC Member States agree, and this is likely to take some time. Until this happens, transactions with other GCC Member States should be treated for VAT purposes in the same way as transactions with all other countries.

Next steps

- If you are an importer of goods, consider whether to apply for VAT deferral
- If you are an exporter, consider whether you may qualify for the domestic reverse charge
- If you receive services from abroad, ensure that you put in place procedures for applying the reverse charge mechanism and ensure that your ERP system can capture the output and input VAT correctly
- If you provide services to foreign customers (including in the GCC), validate whether the rules for zero rating apply on these services



VAT impact on certain industries

Financial services

At a glance

- Financial services will be VAT exempt unless they are remunerated by way of a fee, commission or commercial discount
- The transfer of ownership of an equity security or debt security will be VAT exempt, irrespective of the form of remuneration
- The provision of life insurance and life reinsurance services and the transfer of such contracts will be VAT exempt, irrespective of the form of remuneration
- Financial services to residents of non-Implementing States will be subject to VAT at the zero rate when exported
- Parity of VAT treatment for Islamic Financial products and conventional banking products

Financial services are defined as services related to cash transactions. This is a very broad definition. The Regulations includes a non-exclusive list of financial services which is set out below. As stated above, the provision of such services will only be exempt where they are not remunerated by way of a fee, commission or commercial discount (apart from life insurance and transactions in equity and debt securities).

Similar to KSA and the UAE, a supply of financial services (including those services that would have been exempt if supplied locally), from a taxable supplier in Bahrain to a customer who is not resident in any of the Implementing States and who consumes such services outside the Implementing States, will be subject to VAT at the zero rate.

The Regulations confirm that the same VAT treatment applicable to conventional financial products will apply to Islamic financial products which intend to achieve the same result as conventional financial products.



General rule

The following financial services are exempt from VAT in Bahrain:

1. Financial services where the remuneration received is not by way of a fee, commission or commercial discount
2. The transfer of ownership of an equity security or debt security
3. The provision of life insurance and life reinsurance services as well as the transfer of such contracts

Examples of financial services included in the Regulations

Depositing money in current accounts, savings accounts or deposits	Granting and transferring loans, borrowings and credit	Issue or cancellation of cheques, debit and credit cards	Issue, transfer, receipt or dealing with money, financial bonds, banknotes, money orders	Supply or issue of financial derivatives, deferred contracts or necessary arrangements for them
Supply or issue of shares, stocks, bonds and securities related to them	ATM transactions (excluding supply installation, maintenance of ATMs and ATM software)	Conversion of currency through exchange of banknotes or any related matters	Provision or transfer of financial instruments, sukuk, swaps, options or futures contracts	Issue, allotment, renewal, amendment, rent or transfer of ownership of debt or equity security
Provision or transfer of ownership of life insurance or reinsurance contract	Provision of insurance cover or annuities under an investment scheme	Transactions in guarantees, indemnities or certain securities	Islamic financial products similar to conventional financial products	Commissions for brokerage services or under a Mudaraba or Wakala contract

Financial services

Next steps

- If you are a financial services provider, it is critical that you identify the services you supply that are exempt
- A VAT exemption means that the VAT charged on the expenses used for the making of exempt supplies cannot be recovered, creating an additional cost for the supplier of VAT exempt services
- As a supplier of VAT exempt financial services, you should assess the impact of the VAT exemption on your cost base
- You will also be required to apply an apportionment method to identify the portion of the VAT charged on your costs that you can still recover. This may require changes and an update to your systems and processes

Real Estate

At a glance

- Supplies of commercial, residential and bare land will be exempt from VAT
- Hotel accommodation, hiring of function rooms, car parking for less than one month and management services charged separately are not treated as supplies of real estate and will therefore be subject to the standard 5% rate
- The exemption for supplies of real estate could result in irrecoverable VAT for property owners
- Construction services relating to new buildings and related goods will be zero rated

Sale and rental of real estate

The VAT Law states that the sale and rental of real estate will be exempt from VAT. The exemption applies to residential and commercial real estate, and to bare land. The effect of the exemption is that, since no VAT is chargeable on a supply of the real estate, input VAT on purchases relating to the ownership or transfer of land cannot be recovered. Such purchases may include legal fees and costs of preparing land (e.g. demolition costs, installation of roads and services) and refurbishment and conversion of buildings.

While there is no definition of “real estate”, the Regulations state that it includes the following as examples:

- Any area of land over which rights, interests or services can be created
- Any building, structure or engineering work permanently attached to the land
- Any fixture or equipment which makes up a permanent part of the land or is permanently attached to a building, a structure or engineering works

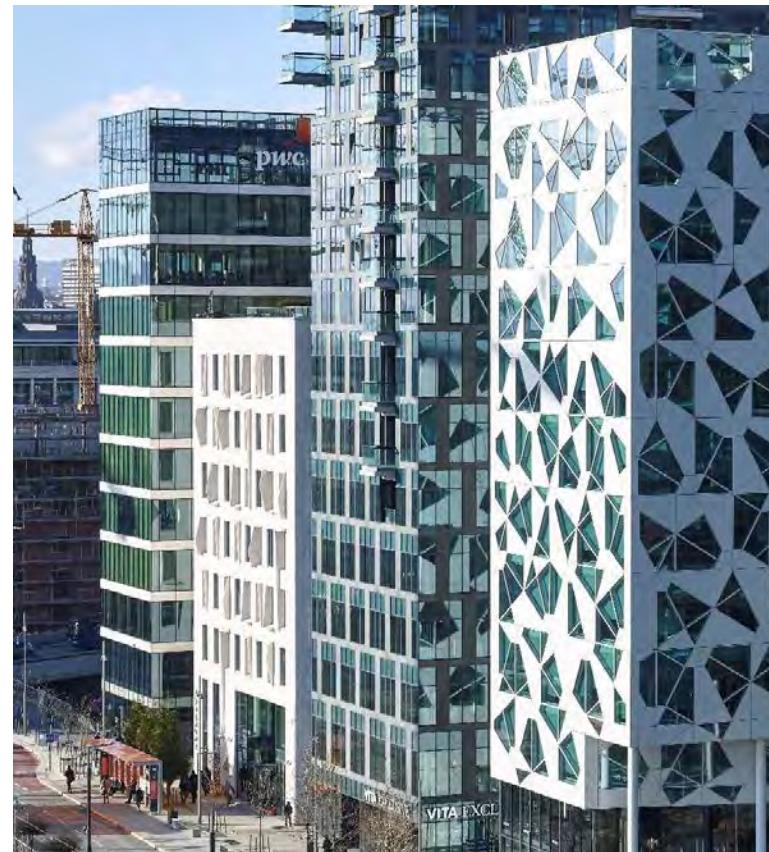
Furniture, fittings, plant and apparatus that are not attached to land or a building and which can be removed without damaging the property will not be real estate. This means that, if real estate is sold or rented together with such items, the consideration must be apportioned and the amount of consideration referable to these items may be subject to VAT at 5% if the supplier is registered or obliged to register for VAT.

The Regulations exclude the following from being supplies of real estate:

- Hotel accommodation, hiring of function rooms and halls
- Car parking rental for less than one month
- Serviced offices where the customer does not have the right to use a designated space on an exclusive basis
- Management services, utilities, telecommunications, internet and television charged separately and in addition to rent.

The Regulations clarify that, where residential accommodation is provided furnished or semi-furnished, the entire consideration will be seen as a supply of real estate, unless a separate charge for the furniture is made. If such a separate charge is made, this would be subject to 5% VAT if the person making the supply is registered or obliged to register for VAT.

The Regulations do not specifically cover serviced apartments or accommodation for workers. These may be addressed in later guidance. We expect that, if not specifically excluded from the definition of real estate, they will be exempt unless associated services (such as food included in the price) form a significant component of the supply, or other factors are present (such as not having the exclusive right to occupy a particular bed).



Real Estate

Construction of new buildings

The Regulations provide details on the zero rating relating to the construction of new buildings. The following will be zero rated:

- Construction services relating to new buildings
- Goods supplied by the person supplying the construction service in the course of constructing a new building

A new building includes an extension of an existing building, but appears to exclude other work on existing buildings such as refurbishment, restoration and conversion.

The Regulations set out examples of services that will qualify for zero rating and those that will not as follows:

Included	Excluded
Construction works	Demolition of existing buildings on the land on which the new building will be constructed
Site clearance	Architects' and interior design fees
Services provided by engineers and surveyors and similar services of a supervisory nature	Restoration works

It seems likely that VAT at 5% will apply on real estate brokerage fees.

Goods supplied as part of the provision of a construction service on a new building that will qualify for the zero rate should be used, installed or incorporated into the building or the land.

Examples provided are as follows:

Included

Building materials (e.g. concrete, building blocks, wood etc)	Materials to construct raised flooring for computer server rooms
Fixtures and fittings to the extent they are permanently affixed to the building and cannot be removed without causing damage to the building or the fixtures	Goods for civil engineering works necessary for the development of the building including sewerage works, piping, roads and paths necessary for the proper use and enjoyment of the building and car parking for use by the building's occupants and visitors
Goods to connect the building to water supplies and telecommunications services	Solar cells and related equipment to produce electricity and hot water for the building

Excluded

Furniture that is not affixed to the building	Goods supplied for landscaping works
Swimming pools	Decorative lighting
Paintings, murals and other artwork	Carpets
Moveable partitions	



Real Estate

Based on the above, a contract to construct a new building is likely to have components that are subject to VAT at the zero rate and those that are standard rated. The Regulations requires that the consideration under the contract is apportioned between supplies subject to the zero and standard rates. Fair market value considerations apply when carrying out this apportionment.

The manner in which the zero rating has been applied will create complexity for developers and may require further clarification from the NBT when applying this in practice.

Next steps

- Assess the potential costs associated with ownership of real estate
- For developers, consider the potential additional cost associated with non-deductible VAT and factor this into cashflows
- For construction companies, ensure you fully understand what construction services and associated goods are zero rated and subject to VAT at 5%. Ensure you have mechanisms in place to allocate contract prices between the two rates.
- For developers who construct their own buildings, consider mechanisms to avail of and maximise the extent of the zero rating for new buildings



Oil and gas

At a glance

- Upstream and midstream activities will be largely zero rated
- Supplies of downstream products such as plastics and fertiliser will be standard rated
- The zero rating will result in significant cashflow benefits to the state owned oil and gas sector

The zero rating for oil, oil derivatives and gas applies widely to upstream and midstream activities, but does not apply to downstream production of fertilisers and plastics. Petrol purchased by final consumers at the pump will also be zero rated.



The following will be zero rated:

Import and supply of oil, gas and other hydrocarbons, whether processed or unprocessed	Exploration and exploitation rights relating to the production of oil, gas and hydrocarbons
Oil and gas exploration services	Oilfield and gas field services including design, drilling, rig set-up, extraction, recovery, separation, evaluation, feasibility analysis, testing, surveys, repair and maintenance
Specialist professional services	Oil refining and gas processing (including regasification of LNG)
Distribution or transportation of oil, gas or other hydrocarbons	Storage of oil, gas and hydrocarbons
Import or supply of consumables used directly and exclusively in the above	Importing, purchasing or leasing equipment used directly and exclusively for the above

The extent of the zero rating will result in a significant cashflow saving for Bahrain's state owned oil and gas companies, as most of their outputs and large purchases will be zero rated. The zero rating will also reduce any cashflow burden associated with the exploitation of the new oil field. State owned oil and gas companies are still likely to be in a regular VAT refund position as some of their purchases will not be zero rated, but we would not expect the refunds to be material in the context of their overall business.

Zero rating oil and gas field services and related supplies (such as the provision of oil rigs and other equipment) may mean that oil and gas field service companies will be in a regular refund position, affecting their cashflow.

Next steps

- Businesses in the oil and gas sector need to analyse all transactions to determine what supplies and purchases will be zero rated
- Businesses further up the supply chain should consider whether they may be in a continuous or regular VAT refund situation and should take this into account when preparing projections

Basic food items

The Regulations provide little further detail on the zero rating for basic food items. They clarify that the zero rating will not apply to food supplied by caterers or by a restaurant, a coffee shop or other similar establishment.

The list of basic food items has been approved by the Financial and Economic Cooperation Committee of the GCC Member States. This list has not yet been formally published by the MoF or NBT. We understand that the list will include items such as meat, dairy products, bread, rice, flour, fruit and vegetables.

Next steps

- Businesses selling food will need to configure their ERP systems for the zero rated items on the list
- Supermarkets and other retailers will need to configure their point of sale systems to ensure that the zero rate applies to the listed products



Telecommunications and electronic services

At a glance

- The place of supply for telecommunication and electronic services will be determined by reference to the place of use and enjoyment when the customer is not registered for VAT in Bahrain or to the place of residence when the customer is registered for VAT in Bahrain
- Foreign telcos will be required to register for VAT in Bahrain and to account for VAT at 5% on charges made to their customers roaming in Bahrain
- Local telcos should not be required to account for VAT at 5% on roaming services provided to foreign telcos if these foreign telcos are registered for VAT in Bahrain
- Local telcos will need to self-account for VAT on roaming charges invoiced by foreign telcos

Telecommunications services

The place of supply of telecommunications services is defined by the place of their use and enjoyment if the customer is not registered for VAT in Bahrain and the place of residence if the customer is registered for VAT in Bahrain.

The place of use and enjoyment of a telecommunications service can either be through a fixed location, the country code determined on the mobile chip for mobile network or the country for the mobile network for roaming. Where a telecommunications service is provided to multiple recipients in different stages of a supply chain, the place of supply will be determined for each recipient.

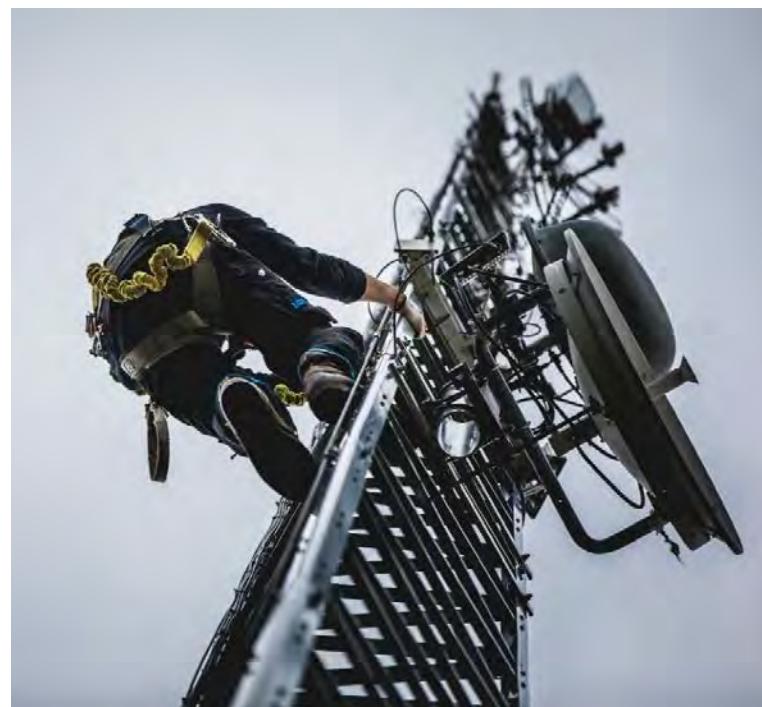
Foreign telecommunications companies that have customers visiting Bahrain and who use mobile roaming services will be required to register for VAT in Bahrain and to charge Bahrain VAT at 5% to these customers.

These telecommunication companies, when charged roaming fees by a Bahrain telecommunication company, should not incur Bahrain VAT on these services as the place of supply of these services should be at their place of residence.

Domestic telecommunications companies will need to self-account for VAT at 5% on roaming charges received from foreign telcos in respect of their customers roaming abroad.

Electronic services

The Regulations provide a list of services which are included in electronic services. Similarly to telecommunications services, if the customer is not a registered person, the place of supply is determined by the place of use and enjoyment of the services at the date of supply. Otherwise, if the customer is registered, the place of supply is determined by the place of residence of the customer. The place of residence can be determined by the customer's address, the details of the bank account, the IP address to receive the services, country code of the SIM card to receive the services or other similar information.



Local and international transport

At a glance

- Local transport of goods and passengers within Bahrain will be subject to VAT at the zero rate, subject to certain conditions being met
- International transport of goods and passengers to and from Bahrain, as well as related services, will also be subject to VAT at the zero rate
- The supply of means of transport to be used for international transport of goods or passengers, as well as related services of maintenance, repair and conversion, will also be subject to VAT at the zero rate

Local transportation services

The supply of goods and passenger transport services by land, water or air from a place in Bahrain to another place in Bahrain will be subject to VAT at the zero rate, except in the following cases:

- The supplier is not regulated or licensed with an authorised body in Bahrain
- The services relate to a vehicle that is rented without a driver (i.e. leasing of a means of transport is not a transportation service)
- The transportation services relate to sightseeing or are for leisure purposes
- The transportation services are for the delivery of food by a person supplying food
- The transportation service is ancillary to a main supply that is subject to VAT at the standard rate

In the exclusions listed above, the transportation services will be subject to VAT at 5%, rather than the zero rate.



International transportation and related services

The supply of international transportation relating to goods or passengers and related services is subject to VAT at the zero rate. International transport is:

- Transport of passengers or goods from a location in Bahrain to a final destination outside Bahrain
- Transport of passengers or goods from a location outside Bahrain to a location in Bahrain
- Transport of passengers or goods within Bahrain when it is part of an international transport of goods or passengers from Bahrain or to Bahrain

For international transport to be subject to VAT at the rate of 0%, the transport must be carried out using a “qualifying” means of transport. A “qualifying” means of transport is defined as

Any vehicle, ship or aircraft requiring a driver, pilot or crew, that is used for the transport of at least ten persons, or for carrying goods on a commercial basis, provided its main objective is international transportation, and to the extent it is not converted or used for recreational or personal purposes.



Local and international transport

The supply of goods and services directly or indirectly related to the supply of international transport of goods and passengers will also be subject to VAT at the zero rate. Examples include the following:

- Goods and services for the use or consumption on board a means of transport
- Packaging, loading and unloading services for goods to be exported
- Containers and equipment rented for the protection of goods to be exported
- Rental of machinery and equipment meant to transport goods to be exported
- Security and storage services for the goods to be exported
- Visa and related services and passenger insurance
- Clearing agency services

Supply of means of transport

The supply of a “qualifying” means of transport (as defined above), by way of sale or lease, will be subject to VAT at the zero rate.

Supplies related with maintaining, repairing, or converting such means of transport (e.g. supply of spare parts, consumable materials and necessary components that are installed or assembled in the means of transport) will also be subject to VAT at the rate of 0%.

Next steps

- Transport businesses need to determine the supplies made by them which will be zero rated, standard rated and out of scope of VAT
- Businesses that do not provide transportation services may still have zero rated supplies (e.g. related to a means of transport). Such businesses will need to have procedures in place to identify where the supplies relate to transportation used domestically (5%) and internationally (0%)



Education

At a glance

- Supply of educational services and related goods and services by schools or educational institutions licensed by a competent authority in Bahrain, to students enrolled in that school or institution are zero rated
- Professional education and vocational training (unless provided by a polytechnic educational institution licensed by the relevant authority in Bahrain) does not qualify as education services for VAT purposes
- Goods and services related to educational services include mandatory supplies directly related to the provision of the educational service

Examples of associated goods and services qualifying for the zero rate and those that do not are as follows:

Zero rated	Standard rated
Subscription fees, application fees or any form of administration fee	The provision of school uniforms
Printed and digital books and reading material which are educational in nature and are directly related to the curriculum	Food and beverages supplied at the educational institution
Student accommodation supplied by the educational institution to students enrolled with the educational institution provided that such accommodation has been constructed or adapted specifically for use by students	Stationery
Activities and trips organised by the educational institution for its students if these form part of the curriculum and are not predominantly recreational in nature	Electronic devices supplied by the educational institution

The supply of educational services and related goods and services by kindergartens, pre-primary education, primary, secondary and higher education institutions are subject to VAT at the zero rate. The institutions must be licensed by a competent authority in Bahrain and the educational services must be provided to a student who is enrolled in that school or institution.

Professional education and vocational training (unless vocational training is provided by a polytechnic educational institution licensed by the relevant authority in Bahrain) does not qualify as education services for the purpose of applying the zero rate. Such services will be subject to VAT at the standard 5% rate.



Next steps

- Educational institutions will need to determine what supplies will be zero rated and standard rated
- Institutions who do not provide zero rated educational services will need to consider the impact of VAT on fees charged to students

At a glance

- The supply of preventive and basic healthcare services and associated goods and services, by qualified medical practitioners or qualified medical institutions, are subject to VAT at the zero rate
- Unless supplied as part of treating a medical condition as prescribed by a qualified medical practitioner, cosmetic surgery is subject to VAT at the standard rate
- The supply and import of medicines and medical equipment listed in a decision issued by the competent medical authority is zero rated
- Qualifying medical institutions include institutions licensed by the National Health Regulatory Authority, or those placed under the supervision of the Ministry of Health
- Qualified medical professionals include persons licensed as practitioners by the National Health Regulatory Authority or placed under any other authorised medical body in Bahrain

The following healthcare services are zero rated, subject to being provided to a patient during treatment by a qualified medical practitioner or at a qualified medical institution:

- General medical health services
- Specialist medical health services, including surgery
- Dental services
- Services related to the treatment of mental illnesses
- Occupational or surgical health services
- Speech therapy prescribed by a qualifying medical professional
- Physiotherapy prescribed by a qualifying medical professional
- Sight and hearing tests
- Nursing care (including home nursing care)
- Services relating to diagnosing an illness, including the analysis of any samples and x-rays to determine a diagnosis
- Vaccinations
- Health testing and/or screening that is undertaken under a local law, documented policy or contractual obligation
- Any goods that are used in the course of performing qualifying medical services such as bandages and drugs are zero rated, together with services including accommodation, catering and transportation of patients

Cosmetic surgery when not provided to restore health, accommodation, catering and transportation of non-patients, entertainment services and catering for employees do not qualify for the zero rate. These will be subject to the standard 5% rate.

The supply of “qualifying medical services” (i.e. preventive and basic healthcare services) and related goods and services provided to a patient during the course of treatment by a qualified medical practitioner or a qualified medical institution, are subject to VAT at the zero rate.

Cosmetic surgery is not considered as “qualifying medical services” unless it is provided as part of treating a medical condition as prescribed by a qualified medical professional.



Healthcare

The supply or import of medicines and medical equipment will be zero rated provided these goods are listed in a decision to be issued by the competent medical authority in Bahrain. We would expect equipment to be used by clinics and hospitals for diagnosis or treatment of patients to be part of this list (e.g. MRI, X-ray, ultrasound, etc).



Next steps

- Medical practitioners, hospitals and clinics will need to determine the services that will be zero rated and those that will be subject to the 5% rate
- ERP systems will need to be updated to ensure that the correct VAT rate is applied on invoices/receipts provided to patients and others
- Hospitals and doctors will need to discuss VAT on supplies not qualifying for the zero rate with insurers



Other matters

Deemed supplies, including gifts and samples

At a glance

- Gifts and samples exceeding certain thresholds will be deemed supplies
- The thresholds are BHD 50 per recipient per year, subject to BHD 1,000 for all gifts and samples in a year
- No deemed supply where related input tax is not deducted or the supply is exempt

The VAT Law provides that a taxable person makes a deemed supply in certain circumstances, e.g. use of business assets other than for business purposes. In such circumstances, where the taxable person has deducted input tax on the relevant goods or services, he will be deemed to have made a supply to himself and must account for output tax on that supply. The value on which VAT is payable will be the original cost, the total actual cost or the market value, depending on the circumstances.

The VAT Law states that the provision of samples or low value gifts will not constitute a deemed supply. The Regulations set out the rules relating to such samples and low value gifts. Essentially, samples provided or gifts of goods made will be deemed supplies, unless:

- The value of all gifts and samples made to one recipient per year does not exceed BHD 50, and
- The total value of all gifts and samples made to all recipients does not exceed BHD 1,000 per year



Examples

1	XYZ BSC makes one gift of goods to ten separate customers during 2019. The value of each gift was less than BHD 50.	No deemed supply	Value of each gift was less than BHD 50 and total value of all gifts did not exceed BHD 1,000
2	XYZ BSC makes the following gifts of goods during 2019: <ul style="list-style-type: none">• Three gifts valued at BHD 40 each to three customers,• Five gifts valued at BHD 60 each to four customers	No deemed supply on the three gifts valued at BHD 40 each Deemed supply on the five gifts valued at BHD 60 each	Value of each of the three gifts was less than BHD 50. Value of each of the five gifts exceeded BHD 50 Total value of all gifts did not exceed BHD 1,000
3	XYZ BSC makes the following gifts of goods during 2019: <ul style="list-style-type: none">• 30 gifts valued at BHD 40 each to 30 customers	BHD 200 will be deemed to be deemed supplies	The annual threshold of BHD 1,000 is exceeded, even though each gift is lower than BHD 50. The excess of BHD 200 is therefore a deemed supply.

Businesses who make gifts and provide samples will need to monitor the BHD 50 annual threshold for each recipient and the overall BHD 1,000 annual threshold in order to ensure that they account for VAT on deemed supplies of these items where applicable. Due to the possible administrative complexity of tracking samples and gifts for this purpose, businesses may simply choose to treat all samples and gifts as deemed supplies, assuming the associated VAT is not material.

The Regulations clarify that a deemed supply will not occur:

- Where input tax on the relevant goods or services has not been claimed; or
- Where the supply is exempt from VAT

Next steps

- All businesses who will be registered for VAT should consider whether they make any deemed supplies
- Where a business provides free samples or makes gifts, it needs to put in place monitoring procedures to monitor the value of each gift/sample and the total aggregate value of gifts/samples per annum to ensure that it correctly accounts for output VAT, where applicable

At a glance

- The tax points of single purpose voucher and a multi-purpose voucher is clarified

Under the VAT Law, the issue of a voucher is not treated as a supply for VAT purposes unless the amount paid for the voucher exceeds its face value, in which case the excess will be a supply of services.

The Regulations also set out the date of supply (tax point) for goods and services exchanged for a voucher.

Where a voucher is a “single purpose voucher” (SPV), i.e. one which can only be exchanged for goods and services taxable at the same VAT rate, the tax point for such goods and services is accelerated to the date the voucher is issued. The issuer of the voucher will be obliged to account for VAT for the tax period during which an SPV is issued.

The tax point for goods and services exchanged for a multi-purpose voucher (MPV) is the date of exchanging that voucher for goods or services.

At a glance

- Requirements for the adjustment of bad debts for VAT purposes is provided

The VAT Law allows a taxable person to adjust the value of a supply to take account of bad debts. The Regulations set out the rules which apply in order to obtain bad debts relief. In order to reduce the value of a supply (and thus recover VAT) due to bad debts, all of the following conditions must be met:

- The payment must be outstanding for at least 12 months (except where the debt becomes bad due to bankruptcy)
- Sufficient measures must have been taken by the supplier to collect the amounts due
- The debt has been written off in full or part in the books of the supplier

When these conditions are met, the supplier may reduce the amount of output tax in the tax return for the tax period during which the bad debt adjustment was made. The customer will be required to adjust the input tax initially recovered by a similar amount.

If the supplier recovers all or part of a debt after it is written off and a VAT adjustment made, he must adjust the output tax in the tax return for the tax period during which the debt was recovered.

Next steps

- Businesses issuing vouchers need to determine whether they are SPVs or MPVs in order to ensure that they can capture the correct tax point and account for VAT at the correct time

Next steps

- Businesses need to track bad debts and ensure that all of the requirements to claim VAT relief are met before adjusting the related output VAT

Tax groups

At a glance

- The Regulations provide detailed provisions on the formation, registration and deregistration of tax groups
- All transactions between tax group members are outside the scope of VAT
- One tax return is submitted reflecting the transactions carried out by all group members
- All members are jointly liable for the tax obligations of the tax group

Two or more legal persons may register as a single tax group. Transactions between group members are outside the scope of VAT and this can have administrative and cash flow advantages in certain circumstances.

In order to form a tax group, all members must meet all of the below requirements:

- They must be related by way of financial, economic or regulatory relationship
- They must be registered for tax purposes prior to applying for registration
- They must be resident in Bahrain
- They must not be part of another tax group in Bahrain
- They must not be a government body

As part of forming a tax group, the members appoint a tax group representative by way of a power of attorney. This tax group representative is the main point of contact for the NBT and submits applications and notifications to the NBT on behalf of the group.

Once registered as a tax group, all members are treated as a single taxpayer. The tax group will receive a new tax registration number and a new tax registration certificate. Members of the tax group may only withdraw from it after one year from the date of joining.

The tax group representative files one VAT return reflecting all transactions carried out by group members during the tax period. As part of preparing this return, all transactions between group members need to be disregarded.

All tax group members are jointly liable for all VAT obligations of the tax group. This is an important consideration for any entities considering whether to enter into a tax group.

Next steps

- Assess whether you qualify for tax grouping
- Consider whether it would be beneficial to register as a tax group

Transfer of a going concern

At a glance

- The transfer of a business or part of a business as a going concern is not a supply for VAT purposes

Under the VAT Law, the transfer of a going concern (“TOGC”) (which includes tangible assets such as fixed assets, rights and other intangible assets as well as liabilities) by a taxable person is deemed not to be a supply for VAT purposes. The Regulations set out the conditions which are as follows:

- The assets transferred must include parts of a business that enable the purchaser to engage in an economic activity transferred by the seller
- The person making the transfer is VAT registered
- The person receiving the transfer is VAT registered, or is obliged to register as a result of the transfer
- The recipient of the assets must immediately use them to conduct an economic activity (business)

In order for the transaction not to be a supply, both the person making the transfer and the recipient of the going concern must notify the NBT of the transaction within 30 days, using a form prepared by the NBT. If notification is not made within the deadline, the transaction will be considered as a taxable supply.

Next steps

- Businesses who are transferring or selling all or part of their operations need to consider whether the TOGC rules apply
- Sellers should consider whether to include specific clauses in asset purchase agreements requiring both parties to submit the required notification of the transaction to NBT within 30 days to mitigate the risk of the supply being taxable, resulting in a VAT liability for the seller which may not be recoverable for the seller from a purchaser



Tax representatives and agents

At a glance

- Non-residents who are required to register for VAT may, but are not obliged to, appoint a tax representative to take care of their tax obligations in Bahrain
- Residents may appoint a tax agent to represent them when liaising with NBT
- Certain conditions must be met to be appointed as a tax representative or tax agent

A non-resident may appoint a tax representative to fulfil his tax obligations in Bahrain. However, the appointment of a tax representative is not mandatory. Based on the Regulations, a non-resident may directly register for VAT and comply with their tax obligations. A tax representative is jointly liable for all VAT (and penalties) due by the taxpayer and replaces the taxpayer in the relationship with the NBT.

A tax representative must be licensed by the NBT prior to being appointed to act on behalf of a non-resident. On being licensed, the tax representative will receive a unique tax registration number.

Resident taxable persons in Bahrain may appoint a tax agent to represent them in their dealings with the NBT. The tax agent does not assume any of the taxable person's liabilities or tax obligations.

The appointment of a tax representative or a tax agent should be made on a form to be submitted to the NBT. A tax representative or tax agent must meet the following conditions:

- They must be resident in Bahrain
- They must be of good conduct and reputation (no sentence to a restriction of freedom in a crime against honour)
- If an individual, must possess a university degree or accounting or legal qualification which has been certified and approved by the Ministry of Education
- If a legal person, must have a valid and current commercial registration
- Must pay the fee prescribed by the NBT
- Must be appointed under a power of attorney

Once appointed, the tax representative or tax agent must keep all information received from a taxable person confidential and must refrain from planning or participating in acts that violate the VAT Law or Regulations.

A taxable person must notify the NBT of the removal or termination of a tax representative or tax agent within 30 days.



Special refunds

The Regulations provide that special refund schemes will be put in place for the following categories of person:

- Foreign governments, international organisations, diplomatic missions and institutions, consular and military bodies
- Tourists (non-Implementing State residents)
- Non-resident businesses (from Implementing States and from outside the Implementing States)



How we can help

VAT implementation

- 1** Conduct VAT awareness briefings
- 2** Assist with classification of your business transactions
- 3** Review your long term contracts and propose VAT specific changes

- 4** Undertake a VAT cost financial analysis
- 5** Provide a VAT implementation plan
- 6** Advise and support on systems, compliance and training

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