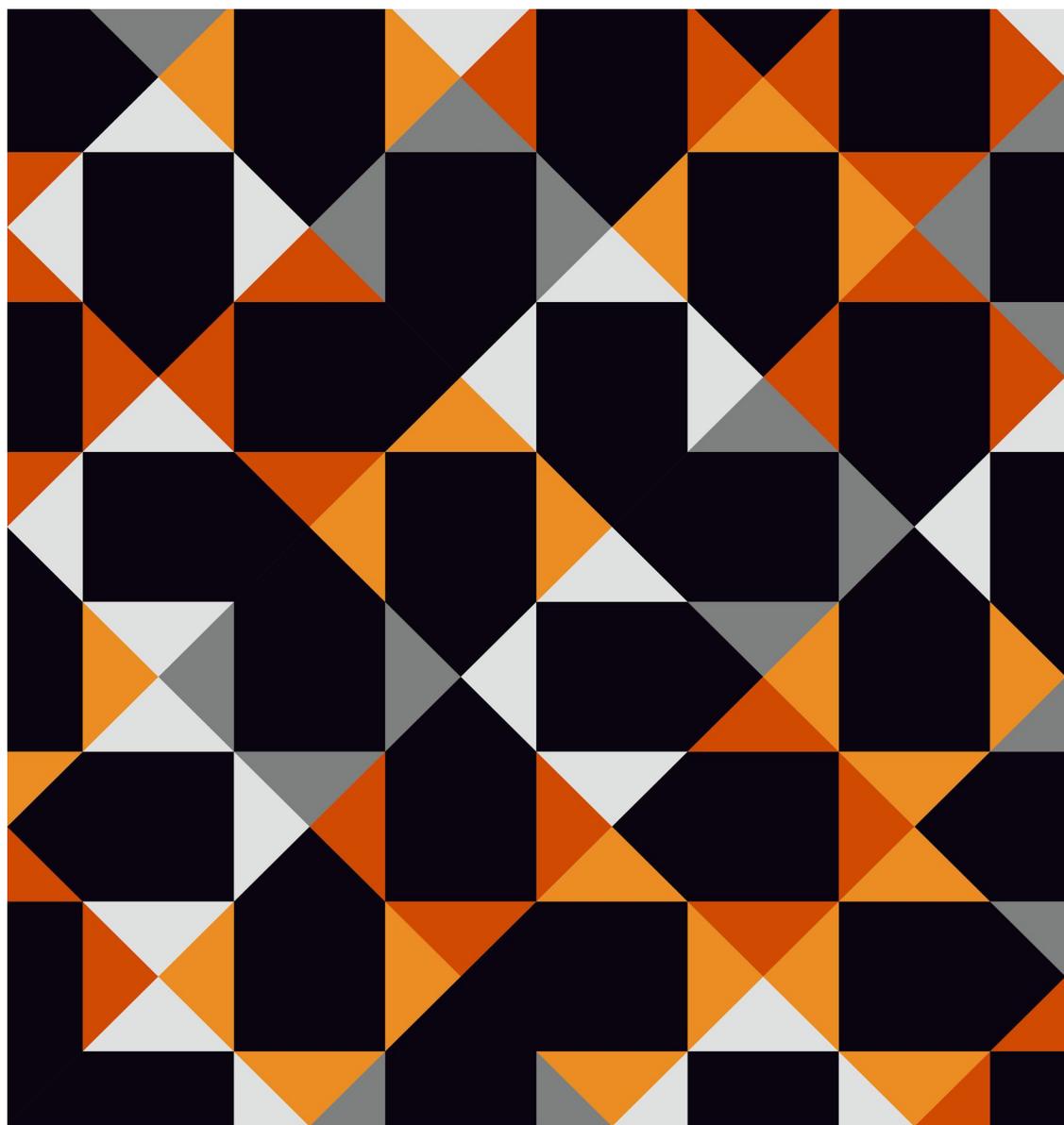


Bahrain: NBR releases VAT Rate Change Transitional Provisions Guide

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In brief

The National Bureau for Revenue (NBR) in Bahrain has released a VAT Rate Change Transitional Provisions Guide following the newly published Law No. 33 for the year 2021 which amends some provisions of the VAT Law issued by Decree-Law No. 48 of the year 2018 to increase the standard rate of VAT from 5% to 10% with effect from 1 January 2022. The Guide explains to taxpayers the four transitional rules which cover contracts for both one-off and continuous supplies, their potential VAT implications and provides clarification on when to apply the new standard rate of VAT. Guidance is also given where changes are made to contracts which result in supplies or consideration being subject to VAT at 5% instead of the new standard rate of 10% and valuing goods and services for the purposes of applying transitional rules 3 and 4.

In detail

The recently published VAT Rate Change Transitional Provisions Guide sets out the VAT treatment of contracts for one-off and continuous supplies signed before and after the Law Enforcement Date (“24 December 2021”) when supplies under these contracts are made before and after 1 January 2022. We have set out below the VAT treatment under each rule:

Rule 1: Contracts for one-off supplies entered into before 24 December 2021 where the supply is on or after 1 January 2022

Under this rule, supplies made under contracts for one-off supplies of standard rated goods and services made before 24 December 2021, where the supply takes place before 1 January 2022, will be subject to VAT at 5%. The 5% VAT rate will also apply on one-off supplies where a contract for their supply was entered into before 24 December 2021, even where the supply is made on or after 1 January 2022.

If changes are made to the contract before the supply is made, or if the supply is made after 1 January 2023, the supply will be subject to VAT at 10%.

Rule 2: Contracts for one-off supplies entered into after 24 December 2021 where the supply is on or after 1 January 2022

Under these contracts, where a supplier issues a tax invoice or receives consideration after 24 December 2021 but before 1 January 2022 for a one-off supply of goods or services to be made after 1 January 2022, he should account for VAT at 10% on the tax invoice or on the consideration received and follow the normal tax due date when issuing a tax invoice for these supplies.

Where, under contracts entered into after 24 December 2021, the supplier had intended to make such supply before 1 January 2022 but the supply was not actually made until after 1 January 2022, then:

- If the supplier had issued a tax invoice at a VAT rate of 5% before 1 January 2022, he should cancel the tax invoice and issue a new tax invoice at the VAT rate of 10%. The supplier will be required to correct this error in the tax return for the period during which the tax invoice was issued by excluding the tax invoice from that tax return. He should also report the full amount of the newly issued tax invoice in the tax period in which the correction took place.



- If the supplier had received consideration for the supply before 1 January 2022, and accounted for VAT at 5% on the consideration, he should self-amend the tax return for the period during which he received the consideration by excluding the full amount of the tax invoice from that tax return. He should also report the full amount of the new tax invoice showing VAT at 10% in the tax period in which correction took place.

Rule 3: Contracts for Continuous Supplies entered into before 24 December 2021 where the supply is on or after 1 January 2022

For standard rated supplies made under these contracts, the following shall apply:

- The 5% rate of VAT will apply on the value of supplies delivered before 24 December 2021;
- The 5% VAT rate will continue to apply on the value of goods and services delivered on or after 1 January 2022 and before 1 January 2023; and
- The 10% rate will apply on the value of supplies of goods and services delivered on or after 1 January 2023.

Where the expiry, change or renewal occurs before 1 January 2023, the 5% rate will apply on the value of supplies made before 1 January 2022 and the 10% rate will apply on supplies made on or after 1 January 2022.

The guide provides guidance on how to value goods and services delivered under contracts in rule 3 and 4. The guide also explains where a contract will be regarded as having been changed or amended. These include, but are not limited to, extending the duration of the contract, including additional supplies of goods and/or services within the terms of the contracts and inflating the consideration payable etc. This is where a change to the contract results in the supplies or consideration being subject to VAT at 5% instead of 10%.

Rule 4: Contracts for continuous supplies entered into before 1 January 2022 where Transitional Rule 3 does not apply

For standard rated supplies made under these contracts which cover a period which extend past 1 January 2022 and which were entered into:

1. On or after 24 December 2021;
2. Before 24 December 2021 but which have been changed or amended on or after that date, but before 1 January 2023.

The applicable VAT rate for these supplies shall be as follows:

- VAT at 5% will apply on the value of goods and services delivered under the contract before 1 January 2022;
- VAT at 10% will apply on the value of the supplies delivered after 1 January 2022 under contracts mentioned under 1 above and 2 (which have been changed or amended before 1 January 2022).
- For contracts mentioned under 2 above where the amendment or change takes place after 1 January 2022, VAT at 10% will apply on the value of goods and services delivered from the date the contract is amended or changed.



Rule 4: Contracts for continuous supplies entered into before 1 January 2022 where Transitional Rule 3 does not apply (cont'd)

Suppliers will need to value the amount of goods and services delivered into the period before and the period after 1 January 2022, and should provide evidence of that valuation at the request of the NBR. Where the nature or quantity of goods or services supplied do not fluctuate over time (e.g. insurance contracts, gym memberships), they will be treated as arising evenly over that period and their value before and after 1 January 2022 can be computed, for example, on a time basis (e.g. using days or months). Where the nature or quantity of goods or services supplied fluctuate over time (e.g. construction or renovation, consulting services), the value of the goods or services provided must be valued based on the actual amount of goods or services delivered before and/or after the relevant date(s).

The apportionment of the value of supplies under this rule does not trigger a tax due date on 1 January 2022; the tax due date will arise on the date of the next invoice, the receipt of consideration or completion of the services (unless one year elapses from the previous VAT due date in which case a VAT due date will apply on the one year anniversary of the previous VAT due date).

Link to the NBR website

The NBR has published the VAT Rate Change Transitional Provisions Guide on its website. A link to the Guide can be found below:

https://www.nbr.gov.bh/guidelines_and_publications

The takeaway

Businesses should immediately assess the impact of the transitional rules

Businesses should review the guidance on when to apply the new VAT rate based on these transitional provisions to ensure that the correct VAT is applied on their standard rated supplies. They should also review their standard rated sales and purchases contracts which extend past 1 January 2022. They should also consider whether any changes are required to their systems and processes to ensure that they are fully compliant with the new rules.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:



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