

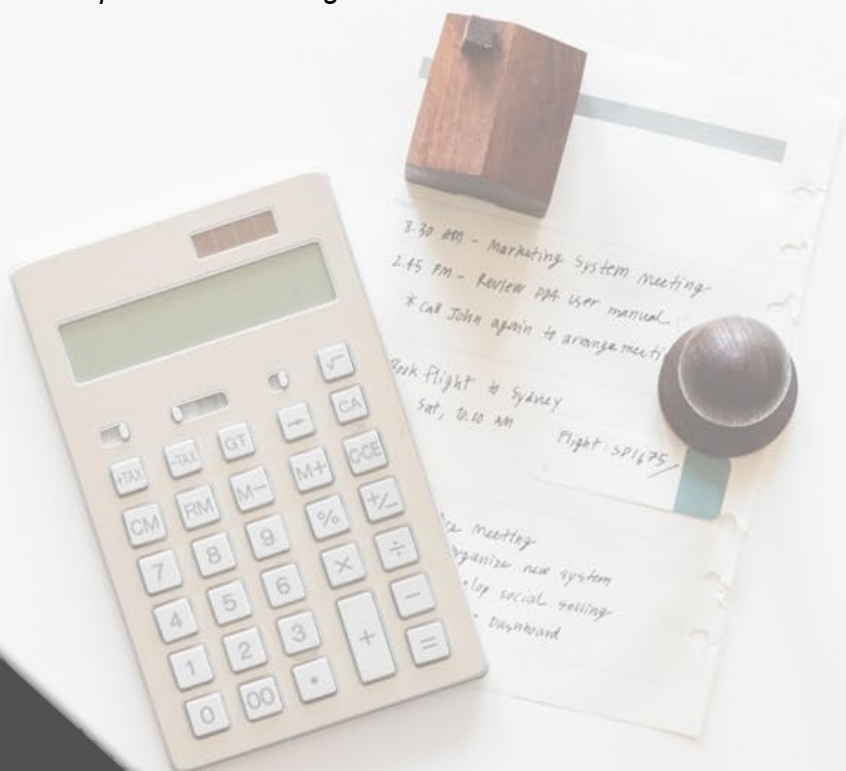
KINGDOM OF BAHRAIN

VAT GENERAL GUIDE

DECEMBER 2018

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الجهان الوطني للإيرادات
National Bureau for Revenue

Contents

Updates to this guide	1
Preliminary remark: transitional rules for 2019	3
1. Introduction	4
1.1. Purpose of this Guide.....	4
1.2. About the National Bureau for Revenue (NBR)	4
1.3. Bahrain legal framework for VAT	4
2. VAT	5
2.1. Introduction	5
2.2. How VAT works	5
2.2.1. Overview of the VAT flow	5
2.2.2. The impact of VAT on the price charged to customers	6
3. VATable persons and VAT registration	8
3.1. VATable person	8
3.2. Timing for registration for VAT	9
3.2.1. Introduction	9
3.2.2. Mandatory VAT registration.....	10
3.2.3. Voluntary VAT registration	12
3.2.4. Persons not eligible for VAT registration	13
3.3. Process for registration	13
3.4. VAT group registration	15
3.4.1. Eligibility to form/join a VAT group.....	15
3.4.2. The “related” condition	15
3.5. Failing to register	18
3.6. Deregistration	19
3.6.1. Mandatory deregistration	19
3.6.2. Voluntary deregistration	19
4. Transactions within the scope of VAT	20
4.1. Introduction	20
4.2. Supplies of goods and services by a VATable person.....	20
4.2.1. Introduction	20
4.2.2. Supplies made by a VATable person	20
4.2.3. Supplies made for consideration	21
4.2.4. Supplies of goods or services	21
4.3. Imports of goods	22
4.4. Deemed supplies	22
4.5. “Out of scope” transactions	25

4.5.1.	Introduction	25
4.5.2.	Transfer of a going concern (surrender of an economic activity)	25
4.5.3.	Disbursements and reimbursements	26
4.5.4.	Intra VAT group transactions.....	27
4.5.5.	Head office-branch transactions.....	27
4.5.6.	Other transactions outside the scope of VAT	28
4.6.	Vouchers.....	28
5.	Place of supply	30
5.1.	Introduction	30
5.2.	Territorial scope of the VAT Law	30
5.3.	Place of supply rules for supplies of goods	30
5.3.1.	Introduction	30
5.3.2.	General rules	30
5.3.3.	Special rules	32
5.4.	Place of supply rules for supplies of services	33
5.4.1.	Introduction	33
5.4.2.	General rules	33
5.4.3.	Special rules	35
5.5.	Place of supply rules for import of goods.....	38
6.	VAT treatment in Bahrain	39
6.1.	Introduction	39
6.2.	Supplies at the standard rate of 10%	39
6.3.	Supplies at the rate of 0%	39
6.3.1.	Export of goods	40
6.3.2.	Export of services	42
6.3.3.	International transport services, supply of qualifying means of transport, related services 44	
6.3.4.	Local transport services	45
6.3.5.	Supply of basic food items	46
6.3.6.	Supply of medicines and medical equipment	46
6.3.7.	Healthcare services	46
6.3.8.	Education services	48
6.3.9.	Construction of new buildings	49
6.3.10.	Oil, oil derivatives and gas sector	50
6.3.11.	Supply of gold, silver and platinum.....	51
6.3.12.	Supply of pearls and precious stones.....	51
6.4.	Exempt supplies.....	52
6.4.1.	Introduction	52
6.4.2.	Real estate supplies.....	52
6.4.3.	Financial services	53
6.5.	Supplies which can be either zero-rated or VAT exempt.....	53
6.6.	Imports of goods	54

6.7.	Single composite and multiple supplies.....	54
6.7.1.	Introduction	54
6.7.2.	Single composite supply	54
6.7.3.	Multiple supplies	55
7.	Person liable to pay VAT	57
7.1.	Introduction	57
7.2.	Supplies of goods and services - general rule: supplier is liable	57
7.3.	Supplies of goods and services - special rule: customer is liable (reverse-charge mechanism)	57
7.3.1.	Overview	57
7.3.2.	Reverse-charge mechanism for supplies made by non-resident suppliers	57
7.3.3.	Domestic reverse-charge mechanism	58
7.3.4.	Reverse-charge mechanism and input VAT recovery.....	58
7.4.	Import of goods - importer is liable	59
8.	Value of supply and VAT due date.....	60
8.1.	Introduction	60
8.2.	Value of supply	60
8.2.1.	General 60	
8.3.	Supplies of goods and services.....	60
8.3.1.	General valuation principles	60
8.3.2.	Specific valuation rules	63
8.3.3.	Adjustment to the value of a supply and related output VAT	66
8.4.	Imports of goods	67
8.4.1.	Value of imported of goods	67
8.4.2.	Value of goods re-imported after a temporary export	67
8.4.3.	Adjustment in the value of goods imported.....	67
8.5.	VAT due date.....	67
8.5.1.	Overview.....	67
8.5.2.	Supplies of goods and services.....	68
8.5.3.	Imports of goods	76
8.6.	Payment of VAT due.....	76
8.6.1.	Introduction	76
8.6.2.	Payment of output VAT due on supplies of goods and services	76
8.6.3.	Payment of VAT due on imports of goods	77
9.	VAT invoices.....	79
9.1.	Introduction	79
9.2.	Principles	79
9.2.1.	The person required to issue a VAT invoice.....	79
9.2.2.	Due date to issue a VAT invoice	80
9.2.3.	Simplified VAT invoice	80
9.3.	Requirements for a VAT invoice and simplified VAT invoice	80

9.4.	Bank statements	81
9.5.	Summarized VAT invoice	82
9.6.	Self-issued VAT invoice	82
9.7.	Invoices for supplies subject to the reverse-charge mechanism	82
9.8.	Intra-VAT Group transactions.....	82
9.9.	Supplementary information	83
9.9.1.	Invoices issued in foreign currency	83
9.9.2.	Rounding rules.....	83
9.10.	Adjusting a VAT invoice	83
9.10.1.	Overview.....	83
9.10.2.	Debit note	83
9.10.3.	Credit note	83
9.10.4.	Requirements for debit and credit notes.....	84
10.	Input VAT recovery	85
10.1.	Introduction	85
10.2.	General principles applicable for input VAT recovery	85
10.3.	Conditions for input VAT recovery.....	85
10.4.	Timing for input VAT recovery.....	86
10.5.	Methodology to compute the recovery of input VAT	86
10.5.1.	Identification of expenses used for economic activity vs non-economic activity....	86
10.5.2.	Input VAT disallowed by law	87
10.5.3.	Direct attribution of expenses to VATable and exempt supplies	88
10.6.	Apportionment of input VAT on residual expenses.....	89
10.6.1.	Overview.....	89
10.6.2.	Standard apportionment method.....	89
10.6.3.	Special apportionment methods.....	90
10.6.4.	Annual adjustment of the apportionment ratio	91
10.6.5.	Recovery of input VAT on pre-VAT registration expenses.....	92
10.7.	Recovery of import VAT paid on goods imported in another Implementing State	92
10.8.	Adjustment to input VAT recovered.....	92
10.8.1.	Introduction	92
10.8.2.	Change in the value of the supply received.....	93
10.8.3.	Failure to pay the consideration for the supply received.....	93
10.8.4.	Change in use - capital assets scheme	94
10.8.5.	Cases where adjustment of the input VAT is not required	96
10.9.	How to claim recoverable input VAT	96
10.10.	How to claim the VAT charged on expenses related to mobile phones and vehicles used for both business and non-business purposes.....	97
11.	Special refund schemes	100
12.	VAT period, VAT return and payment.....	101
12.1.	Understanding the net VAT position.....	101

12.1.1.	Introduction	101
12.1.2.	Output VAT	101
12.1.3.	Recoverable input VAT	101
12.1.4.	Calculating the net VAT position	102
12.2.	VAT periods	102
12.3.	VAT return	103
12.3.1.	Overview	103
12.3.2.	Submission and payment due date	103
12.3.3.	Electronic filing.....	104
12.3.4.	Amending a VAT return.....	104
12.3.5.	Payment process for net VAT payable	105
13.	Record keeping	106
13.1.	Requirements	106
13.1.1.	Documents that must be kept.....	106
13.1.2.	Where and in what format the records must be kept	107
13.2.	Timeframes	107
13.3.	VAT accounts	108
14.	Non-compliance with VAT obligations	109
15.	Bad debts relief	111
16.	Profit margin scheme.....	112
16.1.	Introduction	112
16.2.	Conditions for the application of the profit margin scheme	112
16.3.	Computing the profit margin	113
16.4.	Documentation required to apply the profit margin scheme.....	114
16.5.	Input VAT recovery while using the profit margin scheme	114
16.6.	Challenge by the NBR of the application of the profit margin scheme	114
17.	VAT Administration.....	115
17.1.	Introduction	115
17.2.	VAT rulings	115
17.3.	VAT audits	115
17.3.1.	Definition.....	115
17.3.2.	Frequency of audit	115
17.3.3.	Where and when a VAT audit takes place.....	116
17.3.4.	Knowing that a VAT audit is taking place	116
17.3.5.	NBR powers during a VAT audit	116
17.3.6.	Results of a VAT audit	117
17.4.	Requesting a review of an assessment.....	117
17.5.	Objection to the VAT Appeals Review Committee.....	118
17.6.	Deadlines.....	119
17.7.	Statute of limitations.....	119

17.8.	Issuing VAT certificates.....	120
18.	VAT agents and VAT representatives.....	121
18.1.	Introduction	121
18.2.	Becoming an authorized VAT agent or representative	121
18.3.	VAT payer appointing or removing a VAT representative or agent.....	122
19.	2019 Transitional rules relating to VAT introduction	123
19.1.	VAT registration requirements for the year 2019	123
19.2.	VAT periods for 2019	125
19.3.	Transitional VAT due date rules - supplies spanning 1 January 2019	126
19.4.	Implementing States and Intra-GCC VAT rules.....	130
20.	Final note	131
21.	Appendix.....	132
Appendix A.	VAT common issues	132
A.1.	Head-office / branch relationships	132
A.2.	Disclosed Agent vs Undisclosed Agent	132
Appendix B.	Residence and place of residence	135
Appendix C.	Place most closely connected with a supply	136
C.1.	Introduction	136
C.2.	Determining the place most closely connected.....	136
C.3.	Examples	137
Appendix D.	Fees vs penalties.....	140

Updates to this guide

Version 1.4	30 July 2019	Section 3.4 Eligibility to form / join a VAT group
Version 1.5	14 January 2021	<p>Section 17.4 New sub-section on requesting a review of an assessment</p> <p>Section 17.5 Fee for appealing a decision to the VAT Appeals Review Committee specified</p> <p>Section 17.8 Issuing VAT certificates upon request and payment of the prescribed fee</p> <p>Section 18 Changes to section on VAT agents and representatives, including information on the fee for becoming an authorized agent or representative</p> <p>Appendix C Place most closely connected with a supply</p>
Version 1.6	24 January 2023	Section 3.2 Update criteria of voluntary registration
Version 1.7	14 June 2023	Section 6.3 Supply of investment grade gold
Version 1.8	16 November 2023	Section 9.2 VAT registered persons will be eligible to issue electronic documents without obtaining prior approval from the NBR

Version 1.9	26 March 2023	Section 13.2 Extend the period of retaining records and accounting books for an additional five years
Version 1.10	26 May 2024	Section 10.10 How to claim the VAT charged on expenses related to mobile phones and vehicles Section 15 Further details on bad debt relief
Version 1.11	06 August 2024	Appendix D Fees vs penalties

Preliminary remark: transitional rules for 2019

The year 2019 was a transitional year for VAT in Bahrain. In this respect, specific rules were put in place. These rules concern:

- The temporary rise of the mandatory VAT registration threshold for the year 2019
- A phased mandatory VAT registration with three registration deadlines depending on the value of annual supplies: 20 December 2018, 20 June 2019 and 20 December 2019
- Longer VAT periods (i.e. reporting period) allocated to registered persons for the year 2019
- Special VAT due date rules applicable to transactions contracted prior 2019 and spanning 1 January 2019

It is also important to note that the Kingdom of Bahrain does not currently recognize any other GCC member states as Implementing States for the purpose of VAT. Until further notice, any transaction involving another GCC member state is treated, for VAT purposes, as a transaction involving a non-Implementing State.

Section 19 of this Guide covers the above rules in detail.

1. Introduction

1.1. Purpose of this Guide

This document sets out the general principles of VAT in the Kingdom of Bahrain (Bahrain). The main aim of this document is to provide:

- An overview of the VAT rules and procedures in Bahrain and, if required, how to comply with them; and
- The necessary background and guidance to help in determining how a supply is treated for VAT purposes.

This Guide is intended to provide general information only, and contains the current views of the National Bureau for Revenue (NBR) on its subject matter. This Guide is not a legally binding document, and should be used as a guideline only. It is not a substitute for obtaining competent legal advice from a qualified professional.

1.2. About the National Bureau for Revenue (NBR)

The National Bureau for Revenue (NBR) is the government body responsible for the implementation and administration of VAT in Bahrain. The NBR is responsible for the registration of VAT payers and their VAT liability, the validation of VAT return filing and the related assessment, the payment of refunds and collection of any amount due, the auditing and processing of any appeal and the monitoring and enforcement of compliance.

1.3. Bahrain legal framework for VAT

VAT in Bahrain is codified under the following texts:

- The Unified Agreement for Value Added Tax of the Cooperation Council for the Arab States of the Gulf (the Framework) contains the VAT general principles and rules agreed at GCC level. The Framework was ratified in Bahrain by Decree-Law No. (47) for the year 2018
- Decree-Law No. (48) for the year 2018 regarding Value Added Tax (the VAT Law) provides the main rules and principles relating to VAT in Bahrain and amended by Decree-Law No. (33) for the year 2021.
- Resolution No. (12) for the year 2018 on the issuance of the Executive Regulations of the Value Added Tax Law issued under Decree-Law No. (48) for the year 2018 (the Executive Regulations) provide further details on the application of the VAT Law

The NBR may publish documents to provide guidance and / or clarify specific points relating to VAT rules. This may include guides like this one as well as public clarifications and interpretations of the VAT Law and the Executive Regulations.

2. VAT

2.1. Introduction

Bahrain introduced VAT on 1 January 2019 at a standard rate of 5%. The standard rate was revised to 10% with effect from 1 January 2022.¹ Certain goods and services are subject to a zero-rate (0%) of VAT and others are exempt from VAT.

VAT applies on consumer spending. It is collected on supplies of goods and services as well as on imports of goods and services into Bahrain.

Generally, VAT applies at the standard 10% rate if a supply of goods and services is made:

- By a VATable person.
- In Bahrain; and
- The supply is not specifically exempted from VAT or subject to the zero-rate.

VAT is paid and collected at every stage of the supply chain, with end consumers of goods and services bearing the cost.

2.2. How VAT works

2.2.1. Overview of the VAT flow

If a VAT registered person makes VATable supplies (i.e. supplies of goods or services subject to VAT), he must charge VAT on his supplies and pay it to the NBR. This is “output VAT”.

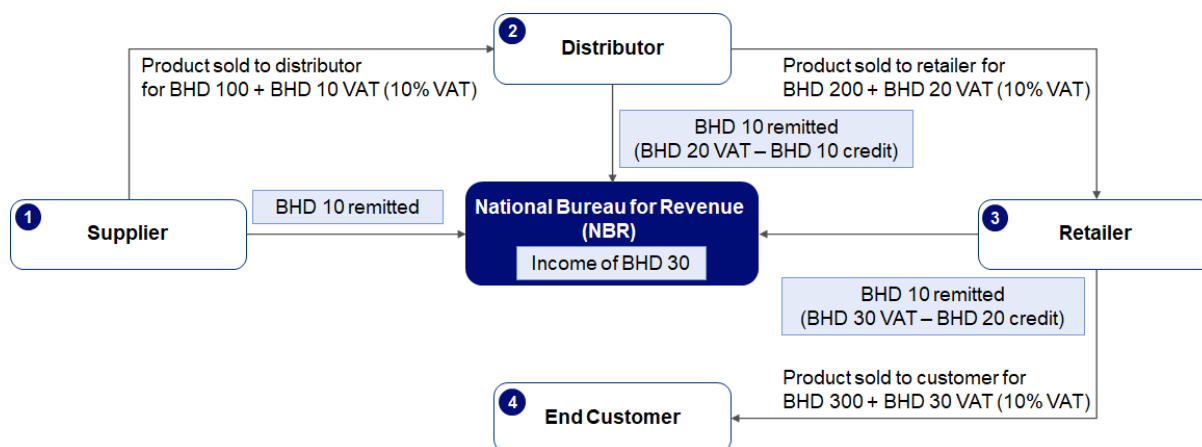
The VAT charged by suppliers on business expenses incurred by a VAT registered person and the VAT paid by him on imports of goods and services is his “input VAT”.

A VAT registered person can reclaim from the NBR the input VAT incurred on his purchases and imports to the extent that these expenses and imports are used to make VATable supplies. VAT incurred on expenses used for a non-business activity or for making exempt supplies (i.e. supplies of goods or services that are not subject to VAT due to a specific VAT exemption) cannot be reclaimed.

On a regular basis, a VAT registered person will file a VAT return to the NBR and pay the excess of output VAT over input VAT. If input VAT exceeds output VAT, a refund of this difference can be sought from the NBR or it can be carried forward as a credit to use against future VAT liabilities. See section 12.2 for more information on how often a VAT registered business must submit a VAT return and pay any associated VAT.

¹ Transitional rules apply in relation to certain supplies made on or after 1 January 2022 under a contract made before that date. These rules are detailed in the VAT Rate Change Transitional Provisions Guide available on the NBR’s website. VAT registered suppliers making supplies on or after 1 January 2022 under contracts made before that date should consult these rules to ensure that they apply the correct VAT treatment to their supplies.

VAT collection across the supply chain



2.2.2. The impact of VAT on the price charged to customers

Outside of the retail sector, whether the price of supplies of goods and services can be increased by an additional amount of VAT depends on the contract between the supplier and customer.

If the contract allows the supplier to add VAT on top of the agreed price, the end price charged to the customer will increase by 10% (assuming the good or service supplied is subject to VAT at the standard rate).

If the contract does not allow the supplier to add VAT on top of the agreed price, the price charged will not increase, but the supplier will still be liable to account for VAT on the good or service (assuming it is subject to VAT at the standard rate). In this case, the price agreed with the customer in the contract is deemed to already include an element of VAT at 10% (i.e. the price is inclusive of VAT), and the supplier will have to divide the agreed price by 11 in order to determine the VAT amount due on the supply.

Example

Company A, resident and registered for VAT in Bahrain, entered into a contract to sell and deliver stationery to Company B's offices in Bahrain. The agreed price for this sale is BHD 5,000 with no further information. As the contract does not specify that the agreed price is exclusive of VAT, this agreed price is deemed to be inclusive of VAT at the standard rate of 10%. In order for Company A to identify the amount of output VAT applicable to its sale the following formula can be applied:

$$\text{Output VAT (at 10\%): } \text{BHD } 5,000 \div 11 = \text{BHD } 454.545$$

Generally, where supplies are made to another VAT registered business which can recover the VAT incurred on its business expenses, that business should accept the additional amount of VAT on top of the agreed price. This is because this customer will not be impacted by the VAT added on its expenses as long as it is entitled to deduct the input VAT from the output VAT it charges on its supplies.

Only end-consumers, i.e. those who are not registered for VAT, will not be able to recover the VAT charged on their expenses. It will be these end-consumers who will experience an increase on the price of goods and services bought by them which are subject to the standard 10% VAT rate.

A business that is not VAT registered may increase its prices to reflect the cost of VAT paid by it on its purchases that it cannot recover from the NBR. This is usually the case when a supplier wants to protect its margin after the implementation of VAT.

3. VATable persons and VAT registration

3.1. VATable person

Only VATable persons are authorized to charge VAT on their supplies. It is therefore critical for each person to determine whether he is a VATable person before charging VAT on supplies.

A VATable person is a person carrying out an economic activity independently for the purposes of generating income and who is registered or obliged to register for VAT purposes in accordance with the provisions of the VAT Law. In order to determine whether a person is a VATable person, he must assess whether he meets all the criteria set out in this definition:

a. He is a person

The VAT Law defines a person as any natural or legal person, whether public or private, or any other form of a partnership.

Examples of “person” include individual traders (establishments), companies (whether private or public), partnerships, charities and government bodies. In addition, it includes individual professionals such as doctors, lawyers, architects, etc.

b. He carries out an economic activity independently for the purpose of generating income

An economic activity² is an activity that is conducted in an ongoing and regular manner for the purpose of generating income, and includes commercial, industrial, agricultural or professional activities or services or any use of tangible or intangible assets, and any other similar activity.

It must be determined if a person is performing a regular and ongoing economic activity with the aim of generating income. A one-off transaction is not an economic activity. Further, it is not necessary that the activity is profitable for it to be an economic activity. It is enough if the activity is conducted for the purposes of generating income.

Government bodies and public entities are usually not considered as carrying on an economic activity when they are acting in their sovereign capacity. However, they may also carry out some activities which typically fall within the economic sphere and are in competition with the private sector. If it is the case, such government bodies and public entities may be considered as VATable persons if the other conditions are met.

² See the VAT Economic Activity Guide for detailed information on what constitutes an economic activity

A charity may be seen as conducting an economic activity even if its aim is not to make any profit. If a charity engages in commercial transactions and receives an income as a result, this could be an economic activity. Activities conducted with a charitable or philanthropic purpose and which are the reserved domain of appointed charities would generally not be an economic activity, and charities solely conducting these types of activities do not meet the conditions to be regarded as VATable persons.

Charities which also conduct activities that are commercial in nature (e.g. collecting used clothes and goods in order to recycle and sell them in charity shops) will be considered as carrying out an economic activity and may be VATable persons, subject to all the other conditions to be regarded as such being met. The fact that these activities are not conducted with the aim of making any profit or to raise money for the main purpose of the charity is not relevant.

An economic activity must be carried out in an independent manner. This condition mainly excludes employees (and persons in acting in a similar relationship with the same characteristics) from the scope of the definition of a VATable person. When carrying out their duties under their employment contract, employees are not considered as performing an economic activity in an independent way. They are acting upon instructions and under the directions of their employer. Employees therefore cannot be VATable persons when acting in their capacity as employees.

- c. He is registered for VAT or is obliged to register for VAT purposes in accordance with the provisions of the VAT Law.

This is further addressed in Section 3.2

If a person meets the above criteria, but is not yet registered, he must assess whether he is required to register for VAT in Bahrain. If he is required to register for VAT on a mandatory basis but has not done so, he is still considered a VATable person. The fact that a person is required to register for VAT in Bahrain is enough for him to be a VATable person.

3.2. Timing for registration for VAT

3.2.1. Introduction

As mentioned previously, the status of VATable person requires this person to be registered for VAT or to be obliged to register for VAT.

There are cases where VAT registration is mandatory and cases where a VAT registration can be applied for on a voluntary basis.

For the year 2019, the VAT registration rules applicable to residents in Bahrain were different. For more information please see section 19 of this Guide, which provides further details on the 2019 transitional rules applicable for VAT registration of residents in Bahrain.

3.2.2. Mandatory VAT registration

Different rules apply depending on whether the business is resident in Bahrain or non-resident. See Residence and place of residence for a discussion on when a person is regarded as resident or non-resident in Bahrain.

The person is resident in Bahrain

1. Exceeding the mandatory registration threshold of BHD 37,500

When a person is resident in Bahrain and meets the criteria to be a VATable person, he is required to register for VAT if:

- The amount of his annual supplies during the previous 12 months exceeds BHD 37,500; or
- The amount of his annual supplies to be provided in the next 12 months is expected to exceed BHD 37,500.

2. Timing for registration

If a person exceeds the mandatory registration threshold, he must apply to the NBR for VAT registration within 30 days starting from the last day of the month where he exceeded the mandatory threshold or within 30 days prior the first day of the month where he expects to exceed the mandatory threshold. Late application for registration may result in the application of penalties.

The effective date of VAT registration (when a person is allowed to charge VAT on VATable sales) will be confirmed on the VAT registration certificate issued by the NBR.

3. How to compute if the mandatory registration threshold has been exceeded

In determining whether the mandatory registration threshold of BHD 37,500 has been exceeded, the following must be taken into account:

- The value of VATable supplies excluding capital assets: the value of supplies of goods and services made in Bahrain (i.e. supplies subject to VAT at the zero-rate or standard rate), including deemed supplies, but excluding consideration for the disposal of capital assets
- The value of the goods and services supplied to the person for which he is liable to account for VAT in Bahrain under the reverse-charge mechanism (see section 7.3)

When Bahrain and other GCC member states recognize each other as Implementing States for the purposes of VAT, the value of Intra-GCC supplies to another Implementing State which would have been subject to VAT in Bahrain if made in Bahrain will need to be added to the above to determine if whether the mandatory registration threshold has been exceeded. This is not applicable until further notice.

4. Related persons

The value of supplies of goods and services (computed as above) made by related persons should also be added together when computing the mandatory VAT registration threshold. If this combined value exceeds the mandatory registration threshold where a business has been segregated to avoid mandatory VAT registration, then all of the related parties must register for VAT (even where each of them, taken on a stand-alone basis, does not meet the mandatory registration threshold).

For VAT purposes, persons are considered as related where one has the authority to direct and supervise the other(s), where he holds an administrative authority enabling him to influence the work of the other person(s) from a financial, economical or organizational perspective. This includes persons under the authority of a third person who may influence their work from a financial, economical or organizational perspective. Further detail on the control conditions can be found in section 3.4 of this Guide.

5. Exception from registration where all supplies are zero-rated

If a person only supplies goods or services which are subject to the zero-rate of VAT, and does not receive services or goods for which he is liable to account for standard rated VAT under the reverse-charge mechanism, he can apply to the NBR for an exception from registering for VAT if his zero-rated supplies exceed the mandatory threshold for registration.

If a person applies for an exception from VAT registration and this is approved by the NBR, he will not be considered as a VATable person. He will not be entitled to charge VAT on his supplies and will not be able to recover the VAT incurred on business expenses (i.e. he will be treated as an end-consumer).

If a person has an exception from VAT registration, he must apply to register for VAT with the NBR as soon as he ceases to meet the opt-out conditions. He must apply within 30 days from the day he ceased to meet the opt-out conditions. A late application may result in the application of penalties.

The person is a non-resident in Bahrain

1. No mandatory registration threshold

A non-resident VATable person must register for VAT in Bahrain as soon as he starts making supplies in Bahrain, on which VAT arises where no one else is liable to account for the VAT due on these supplies. This is generally the case when he supplies standard rated goods or services in Bahrain to non-VAT registered businesses or end-consumers.

There is no minimum registration threshold for non-resident persons. Making a standard rated supply of BHD 1 to a non-registered customer will result in an obligation to register.

2. Timing for registration

A non-resident must apply to register for VAT with the NBR within 30 days of his first supply in Bahrain on which he is required to pay VAT. A late application may result in the application of penalties.

3. Use of a VAT representative

A non-resident may apply to register for VAT with the NBR either directly or through a VAT representative which will represent him in all his VAT related matters in Bahrain.

If a non-resident decides to register for VAT through a VAT representative, he may appoint a person resident in Bahrain, duly approved by the NBR, to act as VAT representative, by way of an official power of attorney.

A VAT representative will be jointly and severally liable for any VAT related liabilities of the VATable person he is representing. For example, if a filing deadline for a VAT return is missed or a payment of VAT is omitted, the VAT representative can be held responsible for the late submission and the outstanding VAT amount and applicable penalties to be paid to the NBR.

See section 18 for more details on appointing VAT representatives.

3.2.3. Voluntary VAT registration

VATable persons who are not required by law to register for VAT in Bahrain (i.e. because their supplies do not exceed the mandatory registration threshold) can still decide to register for VAT on a voluntary basis where:

- Their amount of annual supplies³ or annual expenses⁴ in Bahrain exceeds the voluntary registration threshold of BHD 18,750 in the previous 12 months; or
- Their amount of annual supplies³ or annual expenses⁴ in Bahrain is expected to exceed the threshold of BHD 18,750 in the next 12 months.

When a person applies for VAT registration on a voluntary basis, the effective date of registration is the first day of the next month of processing the application or any future date requested by the VAT payer. The person must remain registered for at least 24 months before requesting voluntary deregistration.

A person who is not required to register for VAT on a mandatory basis but meets the conditions for voluntary registration is not considered as a VATable person until such a time that he becomes registered for VAT purposes on a voluntary basis. Before voluntary VAT registration, that person is not entitled to charge VAT on his supplies and cannot recover the VAT incurred

³ Annual supplies here have to be understood in the same way as for the purpose of computing the mandatory VAT registration threshold (please refer to section 3.2.2)

⁴ Annual expenses mean business expenses subject to VAT in Bahrain at the rate of 10% or at the rate of 0%.

on business expenses (i.e. he is treated as an end-consumer). Any person who charges VAT without being registered or before being effectively registered for VAT may be subject to penalties.

3.2.4. Persons not eligible for VAT registration

A person who is not required to register for VAT and who does not qualify for a voluntary registration cannot register for VAT in Bahrain. As a result, that person may not charge VAT on his supplies or recover the VAT incurred on business expenses (i.e. he is treated as an end-consumer).

3.3. Process for registration

In order to register for VAT, the following steps must be taken:

1. Create an NBR profile
2. Populate the NBR form – which can be accessed using the following link: <https://www.nbr.gov.bh/form>. Required information includes:
 - VAT payer details (legal name, legal form, address, contact details, VAT eligibility date, etc.)
 - Commercial registration details (CR Number, CR date, subsidiary details, sector, etc.)
 - Financial information (annual value of supplies, expenses, imports and exports)
 - Registrant details (name, identification number, date of birth, job title, etc.)
3. Submit the profile creation request. An e-mail from NBR confirming that the application was received and is being processed should be issued.
4. If the NBR profile is approved, login details to access the registration form will be provided.
5. Complete the registration form in a “single click” – which can be accessed using the following link: <https://www.nbr.gov.bh/login>.

When the NBR processes and completes the registration process, it will issue a VAT registration certificate confirming registration and the VAT account number. This certificate must be placed in a visible spot in the establishment(s) of a VAT registered person.

Example of a VAT registration certificate



VAT Registration Certificate

شهادة تسجيل القيمة المضافة



Hereby, the National Bureau for Revenue certifies the VAT effective registration date for the VAT payer below as

01/01/2019

يقر الجهاز الوطني للإيرادات بأن الخاضع للقيمة المضافة أدناه مسجل في القيمة المضافة من تاريخ

01/01/2019

VAT payer information:

معلومات الخاضع للقيمة المضافة:

CR number

0

رقم السجل التجاري

VAT payer name

VATP 1

اسم الخاضع للقيمة المضافة

VAT payer address

VATP Address 1

عنوان الشخص الخاضع للقيمة المضافة

Registration:

التسجيل:

VAT account number

200000000000002

رقم الحساب للقيمة المضافة

VAT registration date

18/12/2018

تاريخ التسجيل

This certificate is sent from an automated system and does not require a signature

هذه الشهادة مرسلة من النظام الآلي ولا تحتاج إلى توقيع

Please ensure that the details on this certificate are correct. You must inform the National Bureau for Revenue "NBR" of any change on the basis of which you obtained your VAT account number. NBR reserves the right to deregister you for VAT purposes based on the evidence of your non-compliance with registration or deregistration criteria.

يرجى التأكد من صحة تفاصيل هذه الشهادة. ويجب إبلاغ الجهاز الوطني للإيرادات بأي تغيير بشأن حصولك على رقم حساب القيمة المضافة. يحتفظ الجهاز بحق إلغاء تسجيلك لأغراض القيمة المضافة في حال ثبوت عدم امتثالك لمعايير التسجيل أو إلغاء التسجيل.

3.4. VAT group registration

3.4.1. Eligibility to form/join a VAT group

Two or more persons can apply to form a VAT group provided all the following conditions are met:

- Each applicant is a legal person (i.e. an entity that is capable of entering into contracts in its own name);
- All applicants have a place of residence in Bahrain;
- All applicants conduct an economic activity;
- All applicants are registered for VAT purposes at the date of applying for registration as a VAT Group;
- None of the applicants is a member of another VAT group in Bahrain; and
- All the applicants are related (see below for further details on this condition).

Upon forming / joining a VAT group, each member of the VAT group becomes jointly and severally liable for all the VAT group's VAT obligations (including any VAT and penalties due) arising during VAT group membership. That liability remains even after the member has left the VAT group.

A member must leave the VAT group as soon as it ceases to meet the conditions to be a member of the VAT group.

A member may leave the VAT group voluntarily even if it still meets the conditions to be a member. However, voluntary withdrawal is only permitted after a period of at least twelve months has passed from the date of joining the VAT group.

3.4.2. The “related” condition

The persons applying to form/join a VAT group will be considered as “related” for the purpose of VAT grouping where:

- One of them has the authority to direct and supervise (i.e. to control) the others; or
- They are all directed and supervised (i.e. they are controlled) by the same person.

The “same person” could be:

- A legal person;
- A natural person; or

- A group of persons acting jointly under a formal arrangement such as a shareholders' agreement or partnership agreement.

For control to exist through the same group of persons, these persons must act jointly under a formal arrangement requiring them to exercise their rights in each of the entities wishing to be group registered as if they were one person. This formal arrangement must be notarized by the Ministry of Justice. This applies to families, partnerships or any other group of persons (legal or natural).

Control is considered to be established when either (i) the same person, or (ii) the same group of persons who act jointly under a formal arrangement:

- Hold, directly or indirectly, more than 50% of the voting rights attaching to the shares in each applying entity;
- Hold, directly or indirectly, more than 50% of the capital or ownership in each applying entity; or
- Control each applying entity by any means other than voting rights or capital participation.

Direct holding refers to cases where a person has shares or voting rights in an entity without intermediaries (e.g. company A owns 55% of shares in company B). Indirect holding covers cases where that relationship is established through a third company (e.g. company A owns 100% of shares in company B which, in turn, owns 55% of shares in company C).

“Control by any other means” exists where a person or same group of persons acting jointly under a formal arrangement do not have control by way of voting rights or capital. “Control by any other means” will be considered established when the same person (or the same group of persons acting jointly under a formal arrangement), having a capital participation in the applying entities, exercises a dominant influence over these entities in one of the following ways:

1. Has the right to appoint and / or remove members of the administrative, management or supervisory body of these entities (equivalent to the board of directors of the entity and does not mean the day-to-day management personnel) who hold a majority of the voting rights in that body. This right must be formalized in a provision in the contracts, articles of association or other constitutional documents establishing / governing these entities or in any other agreement; or
2. Controls alone, pursuant to an agreement with other shareholders / owners of these entities, a majority of the shareholder voting rights in these entities. This agreement must be notarized by the Ministry of Justice.

It is not necessary that:

- The controlling person is a member of the VAT group;
- The controlling person is established (for a legal person) or resident (for a natural person) in Bahrain; or
- There is a direct participation of one applying entity in the other applying entity, provided both of them are effectively controlled by the same person.

Example 1 – Control by the “same group of persons”

A, B and C (all natural persons) each hold 20% of the voting rights in Company Y and Company Z. They do not control them even though their rights, held collectively, amount to 60% in each company.

In order for them to control these two companies, they must hold more than 50% of the voting rights in each company in such a manner that they effectively act as one person in relation to the voting rights, e.g. through a partnership arrangement or through a shareholder agreement (notarized by the Ministry of Justice) where they agree to effectively act as one person when exercising the voting rights attached to their shares.

Example 2 – Direct and indirect control

Assuming that the voting rights follow the capital participation, control is established in cases where (non-exhaustive list):

- *A VAT group applicant has a direct participation of more than 50% in another VAT group applicant.*
- *A parent company has a direct participation of more than 50% in the capital of two different subsidiaries. Although there is no direct participation of one subsidiary in the other subsidiary, both of them are effectively controlled by the same person, i.e. the parent company.*
- *A parent company owns a 100% participation in Subsidiary 1, which in turn directly owns 60% of Subsidiary 2. The parent company holds direct control over Subsidiary 1 and indirect control over Subsidiary 2. Subsidiary 1 holds direct control over Subsidiary 2.*
- *A parent company owns a 70% participation in Subsidiary 1 which, in turn, holds a 70% participation in Subsidiary 2. The parent company directly controls Subsidiary 1 and Subsidiary 1 directly controls Subsidiary 2. Since the parent has an indirect participation of only 49% (70% x 70%) in Subsidiary 2, the three of them cannot form a VAT group together. A VAT group may be formed either between the parent company and Subsidiary 1 or between Subsidiary 1 and Subsidiary 2.*

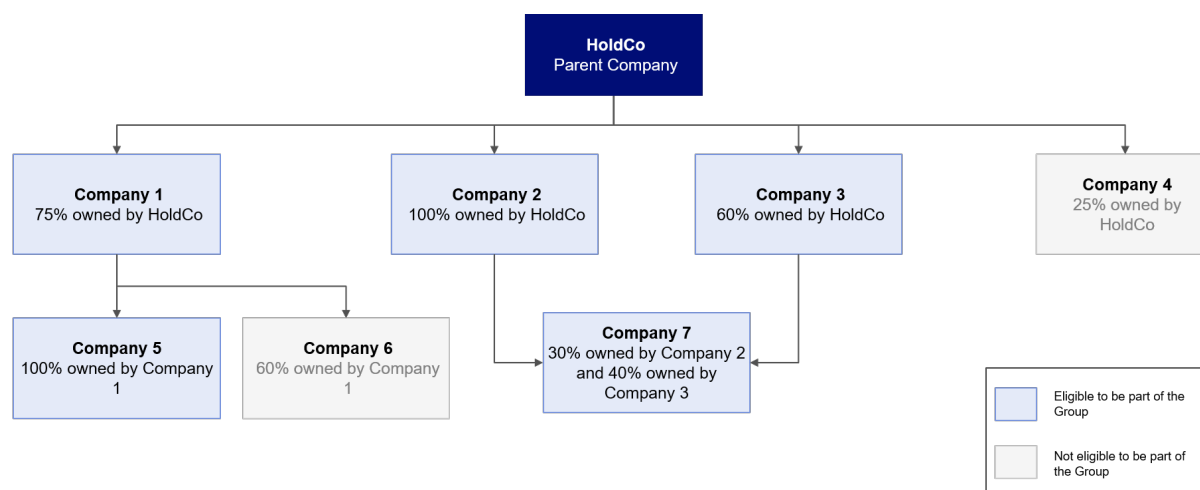
Example 3 – Control by any other means

Noor owns 30% of the shares in Company X (1 share = 1 voting right). Company X’s articles of association grant Noor’s shares the right to appoint and / or remove a majority of the board of directors (who hold a majority of the voting rights at board meetings). Noor does not have control by virtue of her shareholding rights (not being more than 50% of shares and voting rights). However, Noor has effective control of Company X by virtue of dominant influence granted by her right to appoint or remove board members who have the majority of the voting rights at board level.

Example 4 – Control by any other means

Company A and Company B hold 21% and 34% of the shares in Company Y respectively (1 share = 1 voting right). Company A and Company B enter into a shareholders’ agreement whereby Company A grants Company B the right to exercise its voting rights in Company Y. By virtue of this shareholders’ agreement, Company B will have effectively control of Company Y.

The following is an illustrative example of VAT group registration:



3.5. Failing to register

If a person is required to register for VAT, but does not do so by the relevant deadline, the NBR may automatically register him from the date on which he should have been registered. He will be required to account for all the VAT due on his supplies and purchases of goods and services since his effective date of registration.

If a person does not register 60 days after completion of the registration period, the NBR may apply administrative penalties of up to BHD 10,000 as well as sanctions where failure to register is regarded as VAT evasion as per section 14 of this Guide.

3.6. Deregistration

If a person no longer meets the criteria to be registered for VAT, he must deregister. A request for deregistration should be made on the NBR's portal.

A person will remain a VATable person, liable for all his VAT obligations until the NBR approves deregistration and notifies him of the effective deregistration date.

3.6.1. Mandatory deregistration

If a person is registered for VAT in Bahrain, he must deregister within 30 days if any of the following events occurring:

Resident / Non- resident	<ul style="list-style-type: none"> • No longer carries out an economic activity in Bahrain; or • Has not made any VATable supplies for a period of 12 consecutive months
Resident	<ul style="list-style-type: none"> • If the total value of annual VATable supplies in the last 12 months is below the voluntary registration threshold; and • The total value of annual supplies⁵ and annual expenses⁶ is not expected to exceed this threshold in the next 12 months

3.6.2. Voluntary deregistration

Residents

A resident may apply to the NBR to de-register on a voluntary basis if

The value of annual supplies during the last 12 months is below the mandatory registration threshold (BHD 37,500) and exceeds the voluntary registration threshold (BHD 18,750).

A person who registered for VAT on a voluntary basis may not deregister on a voluntary basis until he has been registered for at least 24 months.

Non-residents

A non-resident person may not choose to deregister on a voluntary basis.

⁵ Annual supplies should be understood in the same way as for the purpose of computing the mandatory VAT registration threshold (refer to section 3.2.2)

⁶ Annual expenses mean business expenses subject to VAT in Bahrain at the rate of 10% (previously 5%) or at the rate of 0%

4. Transactions within the scope of VAT

4.1. Introduction

A VATable person will need to consider whether the transactions he makes fall within the scope of VAT as this will be the first step before deciding whether VAT in Bahrain is applicable on such transactions.

If a transaction is not an “in-scope” transaction, it is considered as being “outside the scope of VAT” and is disregarded for VAT purposes. If a transaction is an “in-scope” transaction, it needs to be determined whether VAT in Bahrain is applicable and at which rate.

The VAT Law defines four categories of transactions falling within the scope of VAT:

- Supplies of goods by a VATable person
- Supplies of services by a VATable person
- Imports of goods
- Deemed supplies by a VATable person

Only those transactions falling within one of these four categories are considered as being in the scope of VAT.

4.2. Supplies of goods and services by a VATable person

4.2.1. Introduction

A “supply”, for the purposes of VAT, is any form of supply of goods or services in exchange for consideration, in accordance with the provisions of the VAT Law. For a transaction to be a supply, it must meet the following criteria:

- It must be made by a VATable person.
- It must be made for consideration; and
- It must consist of a good or a service.

These conditions are discussed below.

4.2.2. Supplies made by a VATable person

With regards to this first condition, please refer to section 3 above on VATable persons.

4.2.3. Supplies made for consideration

Under the VAT Law, consideration is all that is received or expected to be received by the VATable supplier from a customer, or from a third party in exchange for the supply of goods or services, inclusive of VAT.

It is therefore necessary that the supply is made for consideration, in money or in kind, to be received either from the customer or from a third party. Supplies made for free are normally not considered as supplies falling within the scope of VAT. However, the VAT Law and the Executive Regulations list specific cases where goods or services provided for free are considered as deemed supplies. Please refer to section 4.4 for further detail.

4.2.4. Supplies of goods or services

Introduction to goods

“Goods” are all types of tangible property, whether movable or immovable. Water and all forms of energy including electricity, gas, lighting, heating, cooling and air conditioning are considered as goods for VAT purposes. The VAT Law lists the following as being supplies of goods:

- a. The transfer of ownership of goods (on the spot transfer of ownership of the goods)
- b. The transfer of the right to use goods as the owner (on the spot transfer of the right to use the goods as if the transferee were the owner)
- c. The disposal of goods under an agreement whereby the transfer of ownership of the goods will happen or will possibly happen at a later date and no later than the date on which the consideration is paid in full (e.g. hire-purchase agreement, sale by instalments)
- d. The granting of rights in rem deriving from ownership giving the right to use real estate
- e. The compulsory transfer of ownership of a good for consideration in accordance with the decision of the public authorities or by law
- f. The transfer of goods belonging to a VATable person from a place in Bahrain to a place in an Implementing State, except if such goods are transferred either on a temporary basis (in accordance with the Customs Law) or as part of a supply which is subject to VAT in the Implementing State and happening within 60 days of the transfer (e.g. a supply of these goods with installation)

The circumstances at (f) will not apply until Bahrain recognizes one or more of the other GCC member states as an Implementing State for VAT purposes.

Introduction to services

“Services” are defined as anything that are not “goods”. Therefore, a supply made by a VATable person for consideration which is not of a supply of goods is a supply of services. Examples of supplies of services are as follows:

- a. Services performed on goods (i.e. repair, refurbishment, improvements, etc.);
- b. Marketing services;
- c. The transfer, grant or license of intangible rights (e.g. intellectual property rights, trademarks);
- d. Consulting, accounting, auditing, legal services;
- e. Transport of goods and passengers;
- f. Operating lease of goods;
- g. Electronic and telecommunications services;
- h. The making available of a facility or a right; and
- i. The grant of the right to perform or the commitment to not perform an activity.

4.3. Imports of goods

An import of goods is the entry of goods into the territory of the Implementing States from a place outside that territory if the goods are cleared through customs (i.e. not placed under a customs duty suspension arrangement). Until Bahrain recognizes another GCC member state as an Implementing State, all goods entering into Bahrain that are cleared through customs will be regarded as imports.

The mere fact that goods enter Bahrain and are customs cleared is enough for an import of goods to have taken place for VAT purposes. An import of goods does not require a supply between two distinct parties or for consideration to be paid.

4.4. Deemed supplies

Introduction

If a person supplies goods or services without consideration (i.e. for free), such supplies are generally not considered as supplies of goods or services for VAT purposes. However, the VAT Law and its Executive Regulations list specific cases where a supply of goods or services for free are considered as supplies of goods or services for the purpose of VAT, even though they do not meet the general conditions to be treated as such. These transactions are deemed to be supplies of goods and services for the purpose of VAT.

Reason for treating goods and services provided for free as deemed supplies

The purpose of treating goods and services provided for free as deemed supplies is to avoid final consumption of the goods or services without VAT applying.

VAT treatment of a deemed supply

If a VATable person makes a deemed supply of goods or services, he is required to account for output VAT on a deemed sale of the goods or services as if he was making a normal VATable supply. He will have to report and pay this output VAT to the NBR.

Deemed supplies are subject to specific conditions. It is only where these conditions are met that a VATable person is considered as making a deemed supply of goods or services. A VATable person is considered as having made a deemed supply of goods or services in any of the following cases:

- a. He changes the use of its goods so that they are used for a purpose other than his economic Activity or to make non-VATable supplies. This only applies if input VAT was recovered on the goods in the past. In such circumstances, the VATable person is deemed to make a supply of these goods at the time he changes their use.
- b. He de-registers for VAT and is still in possession of goods on which VAT has been recovered in the past. The VATable person is deemed to make a supply of these goods at the time of de-registration.
- c. He provides services for no consideration and has recovered the VAT charged on the expenses incurred in performing these services. Here, the VATable person is deemed to make a supply of services at the time he supplies them for free.
- d. He provides goods for no consideration and has recovered the VAT charged on acquiring these goods. Here, the VATable person is deemed to make a supply of goods at the time he supplies them for free. See below for exceptions for certain low value gifts and samples.

Exceptions for low value gifts and samples

There is no deemed supply if goods provided for free are either low value samples for commercial purposes or low value gifts.

Samples for commercial purposes are specimens of products intended to promote the sale of that product and allowing the characteristics and quality of that product to be assessed without resulting in final consumption, except where the final consumption is essential to the promotion of the product.

In order for samples or gifts not to be deemed supplies, the total market value of samples and gifts must not exceed BHD 50 (VAT exclusive) per recipient per calendar year and the total market value of all gifts and samples per calendar year must not exceed BHD 1,000 (VAT exclusive). Any amount in excess of BHD 1,000 will be regarded as a deemed supply.

Example 1

A local business provides a gift bag once a year to all 100 employees as a “thank you” gift. This is the only gift the business provides to its employees. The market value of the goods in each bag is BHD 20 (VAT exclusive).

The market value of the gift bag per employee per calendar year is less than BHD 50. Therefore, each gift bag will be regarded as a low value gift. However, the total market value of all the gift bags for the year is BHD 2,000, above the BHD 1,000 limit.

The company is therefore obliged to treat the excess (i.e. BHD 1,000) as a deemed supply of goods and to account for, report and pay the output VAT on this deemed supply, assuming it has previously recovered the VAT charged on acquiring the goods gifted to the employees.

Example 2

A local business purchases a kitchen appliance with the intention of selling it to a customer in one of its shops. It recovered the associated input VAT.

Subsequently, the business organizes a draw (participation for free, subject to no pre-conditions) where the winning price is the kitchen appliance. The market value of the kitchen appliance is BHD 100 (VAT exclusive).

Given the VAT exclusive value of this gift (i.e. above BHD 50), the business is required to recognize a deemed supply of goods and to account for, report and pay the output VAT on this deemed supply.

Free goods and services as part of a promotional or commercial offer

When a service or good is provided for free together with a supply made for consideration (bundled promotions), this may not be considered as a deemed supply if it is clearly provided as part of a promotional or commercial offer requiring the customer to buy a specific supply in order to receive the free good or the free service.

Example

A retailer gives a pair of earphones for free to its customers when they buy a phone. Here, the phone is provided for a consideration and subject to VAT. If the earphones are part of a promotional offer and are only given for free where a phone is purchased and this is clearly part of a set promotional offer, the free earphones should not be seen as a deemed supply of goods.

The same applies for businesses making a “buy-one get-one free” or similar offer to the extent the conditions for the promotion are clearly defined by a commercial practice and supported by a documented policy.

4.5. “Out of scope” transactions

4.5.1. Introduction

“Out of scope” transactions are those which either do not meet the criteria to fall within one of the four categories above or are specifically excluded from the VAT scope by a provision of the VAT Law. A VATable person should not account for VAT on an out of scope transaction. Common out of scope transactions are discussed below.

4.5.2. Transfer of a going concern (surrender of an economic activity)

A VATable person (transferor) may transfer his entire business or part of it to another person (transferee) as part of a going concern, either for free or for consideration. This is referred to as surrender of an economic activity in the VAT Law and the Executive Regulations.⁷

The transfer of a going concern, with or without consideration, does not fall within the scope of VAT if all of the following conditions are met:

- The transferor is a VATable person registered for VAT in Bahrain;
- The transferee is a VATable person who is registered for VAT in Bahrain or who becomes obliged to register as a result of the transfer;
- The transfer is of a business or a part of a business that enables the transferee to carry out the activity subject to the transfer;
- The business or part of business transferred must be immediately used by the transferee to carry out a similar activity to the one that was conducted by the transferor;
- The business or part of the business transferred must be subject to actual exploitation and generate revenue, even if such exploitation is not profitable; and
- Each of the transferor and the transferee must independently notify the NBR of the transfer within thirty days of the date of the transfer.

A business or part of business is usually considered as transferred when the transfer includes tangible assets such as fixed assets, rights and other intangible assets, as well as the liabilities related to the business or part of business.

If all of the above conditions are met, the transfer will be considered as being outside the scope of VAT, and no VAT will apply on the assets transferred.

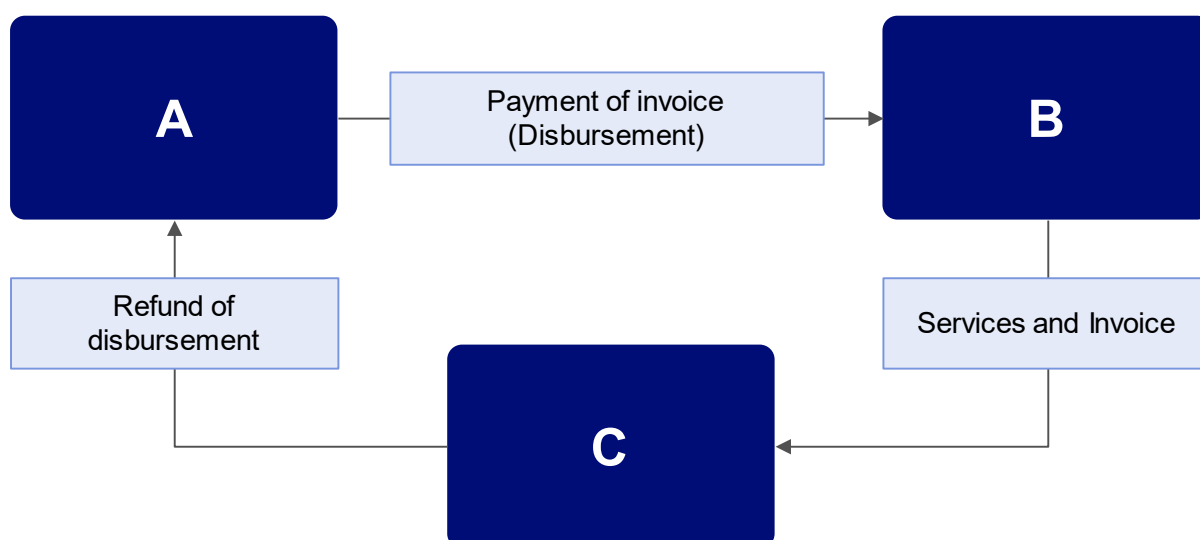
If the conditions above are not met, the transfer will be considered as a transaction falling within the scope of VAT, and each part of the business transferred will be treated as a supply of goods or services, as the case may be.

⁷ See the VAT Transfer of a Going Concern guide for more information

4.5.3. Disbursements and reimbursements

Disbursement

A disbursement is a transaction where a person (A) makes a payment to a third party (B) in the name and on behalf of another person (C) and later recovers such amount from C.



The payment and recovery by A are not supplies falling within the scope of VAT. A is only acting as a paying agent between B and C. The payment flows between A and B and A and C are mere disbursements and are ignored for VAT purposes.

Example

An employee (A) at the request of his employer (C) attends training in a hotel (B) and pays the hotel bill. A asks for a reimbursement from his employer through an expense account.

Here, the supply of goods or services actually happens between B and C. If B charges VAT on its supply, A is not expected to recover this VAT and is also not expected to charge VAT to C. A only pays the amount as stated by B and seeks a refund of the exact same amount from C. C will be the one able to recover the VAT charged by B if it is entitled to do so under normal input VAT recovery rules.

Reimbursement

A reimbursement is different from a disbursement. For a reimbursement, a VATable person procures a good or a service for its customer and acts as a principal in the procurement chain. The VATable person will procure the good or service from a third party, be invoiced by that third party and will recharge the costs (with a mark-up or not) to its customer.

In this case, the VATable person (B) acts in its own name, as a principal, buys the good or service from the third party (A) and on-sells it to its customer (C). Therefore, the VATable person (B) is required to charge VAT on its supply to its customer (C) and is also able to recover the VAT charged by the third party (A), subject to the normal input VAT recovery rules.



Determining whether it is a disbursement or a reimbursement

In order to determine whether the transaction is a reimbursement (recharge) of costs or a disbursement, a VATable person should consider the following questions:

- Does he contract with the supplier in his own name or in the name of another person?
- Is he considered as receiving the goods or the services from the supplier?
- Who is legally liable to pay the supplier, i.e. in default of payment, who does the supplier sue?
- Who is the “bill to” person on the invoice issued by the supplier? Is the invoice issued in “care of” a person?
- Does he record the payment to the supplier as an expense and the refund from the customer as income in his profit and loss account, or does he simply record a receivable in his balance sheet which is credited when the refund is received?

4.5.4. Intra VAT group transactions

Transactions between members of the same VAT group are outside the scope of VAT as they occur between the same VATable person for VAT purposes.

4.5.5. Head office-branch transactions

Transactions occurring between a head-office and its branches or between the branches of the same head-office are considered as being outside the scope of VAT since they happen within the same legal entity.

This is the case when the head office and the branches are all located in Bahrain, but also when the head office and the branches are not all located in Bahrain (e.g. a head-office in KSA or in the UK with a branch in Bahrain or a Bahrain branch and a UAE branch of a French head-office).

For cross-border movements of good entering Bahrain, goods will be regarded as imported even where the goods are sent between a head office and a branch or between branches.

4.5.6. Other transactions outside the scope of VAT

The below are examples (non-exhaustive) of transactions that do not fall within the scope of VAT:

- Tips paid on top of a bill, where the customer tips due to his own independent choice.
- Goods that are returned (e.g. deficient or unsatisfactory). The customer does not supply the goods to its supplier; the return is a reversal of the initial supply.
- The receipt of an inheritance through a will.
- The replacement of goods under a warranty. The replacement goods are not seen as being separately supplied to the customer, provided the replacement is covered under the warranty.
- The receipt of dividends. This is because the exercise of shareholder rights is generally not considered as an economic activity for VAT purposes.

4.6. Vouchers

Vouchers, for VAT purposes, are electronic or written instruments, to which a monetary value is attached (face value), and which grant their holder:

- The right to receive goods or services equivalent to their face value, or
- The right to receive a discount or reduction on the amount payable for such goods or services.

Postage stamps issued by the Bahrain post office are not considered as vouchers.

The issue and transfer of a voucher for consideration may or may not constitute a transaction falling within the scope of VAT. This will depend on the features of the voucher and the consideration paid for the issue or transfer of the voucher.

For VAT purposes, there is a difference between a “Single-purpose voucher” (“SPV”) and a “Multi-purpose voucher” (“MPV”):

- An SPV is a voucher that can be exchanged for goods or services that are all subject to the same VAT treatment (i.e. all 10%, all 0% or all exempt)
- An MPV is a voucher that can be exchanged for goods or services that can be subject to different VAT treatments (i.e. 10%, or 0% or exempt)

The issue of an SPV and any subsequent transfer of that SPV for consideration is considered as a supply of the underlying goods or services (i.e. the goods or services which the SPV can be used to purchase).

The issue of an MPV and each subsequent transfer of that MPV for consideration is not a supply falling within the scope of VAT. A supply that is within the scope of VAT will only occur when the MPV is exchanged for goods or services.

Where an SPV or an MPV is issued or transferred for consideration that is higher than its face value, the excess (i.e. the difference between the consideration received and the face value) is treated as consideration for a separate supply of a service by the issuer or seller of the voucher (i.e. a supply of a voucher). This supply is subject to VAT at the standard rate.

The value and VAT due date of supplies involving vouchers are covered in sections 8.3 and 8.5.2 of this Guide. See also the VAT Retail and Wholesale Guide for further information on the VAT treatment of vouchers.

Example

A company issues a gift card showing a face value of BHD 55. It can be used to purchase goods and services subject to the 10% and 0% rates. The price for issuing the gift card is BHD 60.

As the sale price for the voucher exceeds the value of goods and services that can be purchased using it, the excess of BHD 5 is the consideration for a supply of a service subject to VAT (i.e. a supply of a voucher).

As the voucher can be used to purchase goods and services subject to different VAT treatments, it will be treated as an MPV. Therefore, no immediate supply takes place in respect of that MPV. A supply will take place for VAT at the time of redemption of the voucher (i.e. when it is exchanged for goods or services).

5. Place of supply

5.1. Introduction

For Bahrain VAT Law to apply and for Bahrain VAT to be charged, a transaction must fall within the VAT jurisdiction or “territorial scope” of Bahrain. It is therefore critical to know where a transaction takes place or is deemed to take place for VAT purposes.

The VAT Law provides for specific rules to be followed so that it can be determined whether a transaction falls within the territorial scope of VAT in Bahrain. These are commonly referred to as “place of supply rules”.

The section below sets out an overview of the place of supply rules in the VAT Law. These should be considered when determining whether a transaction falls within the territorial scope of the VAT Law.

5.2. Territorial scope of the VAT Law

The Bahrain VAT Law is applicable where a supply takes place in the territory of the Kingdom of Bahrain as a result of the application of the place of supply rules.

The VAT Law defines the territory of the Kingdom of Bahrain as “including its lands and the territorial waters and where the Kingdom of Bahrain practices its rights of sovereignty, in accordance with international law”.

5.3. Place of supply rules for supplies of goods

5.3.1. Introduction

The VAT Law contains general place of supply rules and special place of supply rules for supplies of goods. The general rules apply when a supply does not fall within one of the special rules. It is therefore critical, as a first step, to analyze the features of a supply of goods and determine whether one of the special rules apply, or whether the supply falls under the general rules.

5.3.2. General rules

The general place of supply rules for goods will depend on factors including whether the supply includes a transport of the goods or their installation. For goods supplied without transportation and without installation, the place of supply is where the goods are placed at the disposal of the customer.

For goods supplied with transportation, the place of supply is where the transport starts. This applies whether the transport is carried out by the seller, the purchaser or a third party on their behalf. An overview of the place of supply rules for goods with transportation is as follows:

Type of supply	Place of supply
Starts in Bahrain and ends in Bahrain	Bahrain, as the goods are located in Bahrain at the start of their transportation
Starts in Bahrain and ends outside the territory of the Implementing States	Bahrain, as the goods are located in Bahrain at the start of their transportation
Starts in Bahrain and ends in the territory of another Implementing State	Relates to intra-GCC rules covered in section 5.3.3 of this Guide
Starts outside the territory of the Implementing States and ends in Bahrain	Outside Bahrain, as the goods are located outside Bahrain at the start of the transportation There will be an import of the goods for VAT purposes when they enter the territory of the Implementing States and are customs cleared (covered in section 5.3.3 of this Guide)
Starts in the territory of an Implementing State and ends in Bahrain	Relates to intra-GCC rules covered in section 5.3.3 of this Guide

If a supply of goods involves their installation or assembly, the place of supply is where the installation or assembly takes place. For this rule to apply, the installation or assembly must be carried out by the supplier of the goods or by a third party on his behalf. A summary of the rules is as follows:

Type of supply	Place of supply
Includes the installation or assembly of the goods	<ul style="list-style-type: none"> • In Bahrain if the installation or assembly of the goods takes place in Bahrain • Outside Bahrain if the installation or assembly of the goods takes place outside Bahrain

5.3.3. Special rules

Supply of water, energy and electricity

The place of supply of water, oil and gas by a pipeline distribution system and the supply of electricity through the production, transmission and distribution networks follows the following special rules:

Type	Place of supply
Supplied to a purchaser qualifying as a VATable trader ⁸	Place of residence of the VATable trader making the purchase
Supplied to a purchaser that is not a VATable trader	Actual place of consumption

Intra-GCC supplies of goods

An intra-GCC supply of goods is a supply of goods with transport where the goods are shipped by a supplier from an Implementing State to a customer in another Implementing State.

The transfer of a good belonging to a VATable person from a place in an Implementing State (e.g. Bahrain) to a place in another Implementing State is also to be treated as an intra-GCC supply of goods, except when:

- The goods are solely transferred on a temporary basis (in accordance with the Customs Law); or
- The goods are transferred as part of a supply subject to VAT in the Implementing State of arrival, provided this supply happens within 60 days of the transfer (e.g. transfer of goods as part of their supply with installation in that Implementing State).

In these two cases, the transfer of the goods is to be disregarded for VAT purposes (i.e. will not be in the scope of VAT).

Once the Electronic Service System is in place and applied in all Implementing States, specific intra-GCC rules will be applicable to define the place of supply for intra-GCC supplies of goods. The Electronic Service System is the system to be implemented by the GCC member states enabling them to capture the details of all the cross-border transactions happening within the territory of the GCC.

The intra-GCC rules are provided in Article 14 (B) of the Law and Article 20 of the Executive Regulations and will be further explained when they become active.

⁸ A VATable Trader is a VATable Person in any Implementing State, and whose primary activity is the distribution of gas, oil, water or electricity.

For the time being, the place of supply for intra-GCC supplies of goods follows the same general rule as for supplies of goods with transport, as mentioned above (i.e. where the transport starts).

5.4. Place of supply rules for supplies of services

5.4.1. Introduction

The VAT Law provides “general rules” and “special rules” for the place of supply of services. In order to determine the place of supply of a service, it should first be considered whether the service falls under one of the “special rules” and, if not, the relevant general rules should be applied.

5.4.2. General rules

There are two general place of supply rules for services. These are based on the place of residence of either the supplier or the customer. (See Appendix B for information on what constitutes a place of residence.) The key differentiator between these two rules is the VAT status of the customer, i.e. whether it is a VATable person or not.

Place of residence of the supplier

As a general rule, the place of supply of a service is considered to be the place of residence of the supplier.

Example 1

A Bahrain resident supplier provides IT services to a customer resident in Spain. The place of supply of these services is Bahrain as this is where the supplier has its place of residence for VAT purposes.

Example 2

A Bahrain resident supplier provides IT services to a customer resident in Bahrain. The place of supply of these services is in Bahrain as this is where the supplier has its place of residence for VAT purposes.

When Bahrain recognizes one or more GCC member states as an Implementing State for VAT purposes, the place of supply rules for services between residents of these countries will change. For now, however, the rule described above will apply to intra-GCC transactions.

Place of residence of the customer (VATable person)

Where the customer is a VATable person residing in Bahrain and the supplier is non-resident, the place of supply of the services is the place of residence of the VATable customer (i.e. in Bahrain).

Example

A VATable person who is resident in Bahrain receives a legal service from a law firm resident in the UK. The place of supply of this service is in Bahrain, i.e. the place of residence of the VATable customer. The same would apply if the services were received from a law firm established in the United Arab Emirates instead of the UK.

Examples of this rule in action are shown in the following table:

Place of residence of the Supplier	Place of residence of the Customer	Place of supply of the service
Bahrain	Bahrain	Bahrain (where the supplier is resident)
	Outside the Implementing States	
	Other Implementing State - not a VATable person	
	Other Implementing State - VATable person	Until further notice: Bahrain (where the supplier is resident) When intra-GCC rules apply (not yet applicable): Other Implementing State, i.e. where the customer VATable person is resident
Outside Bahrain	Bahrain - Not a VATable person	Outside Bahrain - where the supplier is resident
	Bahrain - VATable person	Bahrain - where the customer VATable person is resident

If a person has a place of residence in more than one country, the place of residence used for applying the general place of supply rules is the place of residence most closely connected to the supply of the services. See Appendix C for a discussion on the concept of a place most closely connected to a supply.

Example 1

A US company provides consulting services from its branch in Bahrain to a customer resident in India. The place of supply is in Bahrain (i.e. the place of residence of the supplier) because the branch in Bahrain is the place of residence most closely connected to the supply of the consulting service to the customer in India.

Example 2

A Bahraini representative office of a Saudi Arabian company which is registered for VAT in Bahrain directly receives marketing services from a supplier established in the UAE. The place of supply of these services is Bahrain (i.e. the place of residence of the VATable customer). This is because the Bahraini representative office is the place of residence most closely connected to the supply of the marketing services made by the UAE supplier.

5.4.3. Special rules

The VAT Law sets out special place of supply rules for services. These rules are summarized below.

Service	Place of supply
Rental of a means of transport to a customer who is not a VATable person	Where the means of transport is placed at the disposal of the non-VATable customer
Transport of goods, passengers and services related to such transport	Where the transport starts
Restaurant, hotel, catering, cultural, artistic, sporting, educational or recreational events	
Services related to moveable goods supplied by a supplier in Bahrain to a customer which is a not a VATable person in another Implementing State ⁹	Where the service is actually performed
Related to real estate	Where the real estate is located
Telecommunications and electronic services	Where the services are used and enjoyed, to the extent of such use and enjoyment

⁹ Rule not yet operable – will apply when Bahrain recognizes one or more GCC member states as Implementing States.

Services related to real estate

Services related to real estate are defined in the Executive Regulations. These include accommodation services, services related to construction, services by real estate experts, estate agents, auctioneers, architects, engineers and others who perform tasks and work related to real estate.

These services have to be directly connected to specific real estate. In this regard, real estate is defined as any of the following:

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

Telecommunications and electronic services

Telecommunications services are defined in the Executive Regulations as:

“Services relating to the transport, transmission, conversion or reception of signals used for the dissemination of words, images, audio or information by any kind of wire, radio and telephone services, visual telephone services, Voice over Internet Protocol (VoIP), voice mail, call waiting and other call management services, internet access and roaming data, including related transmission services or granting the right to use the ability to convert, transmit, receive or other similar means.”

Electronic services are defined in the Executive Regulations as:

“Services provided over the internet or any electronic platform, and which operate in an automated manner with limited human intervention and which are impossible to complete without the use of information technology.”

The Executive Regulations also provide certain examples of electronic services including:

- The supply of a website, web page on the internet and web hosting services;
- The supply of computer and software programs as well as their maintenance and update;
- The supply of digital products and visual content, including apps, screensavers, e-books and digital files;
- Online supply of music, films, television series, games, magazines, newspapers, or other programs;

- Supply of advertising space on websites and of any rights associated with such advertising; and
- Supply of online educational services.

The place of supply rule for telecommunications and electronic services is where these services are used and enjoyed at the date they are supplied. Bahrain VAT Law therefore applies when the services are used and enjoyed in Bahrain, within the limit of such use and enjoyment.

In order to determine the place of use and enjoyment of a given service, the supplier must follow the rules detailed below.

- If the customer is not a VATable person, the place of use and enjoyment is the place where the customer actually uses and enjoys the service. The place where the contract with the customer is executed and the place where the customer pays for the service are not relevant. The following rules should be used to identify the place of actual use and enjoyment of a service:
 - If services are received through a fixed location (e.g. fixed or public telephone services, Wi-Fi services), the place of that fixed location will be the place of actual use and enjoyment
 - If services are received through a mobile network, the country corresponding to the country code of the SIM card used to receive the services will be the place of actual use and enjoyment
 - For international roaming services, the country in which the mobile network is located which the customer uses to receive the services will be the place of actual use and enjoyment
- If the customer is a VATable person, the place of use and enjoyment is the place of residence of the customer. The following rules should be used to identify the place of residence of the customer VATable person:
 - The customer's address as stated on a VAT invoice or other documents used for billing
 - Details of the customer's bank account
 - The Internet Protocol (IP) address used to receive the services
 - The country code of the SIM card used to receive the services
 - Any other information of a commercial nature

The place of supply rule for telecommunications and electronic services has to be assessed at the level of each transaction. For example, where a telecommunications service is supplied by a telecom operator to a second telecom operator and this second telecom operator

subsequently supplies this service to its customers, each supply will have to be looked at separately when determining its place of use and enjoyment (i.e. each supply will follow its own place of use and enjoyment rule).

5.5. Place of supply rules for import of goods

The place of supply for import of goods is the first point of entry of the goods in the territory of the Implementing States.

Where goods are placed under a customs duty suspension regime¹⁰ upon entering the territory of the Implementing States, the place of supply for the import of these goods is in the Implementing State to which the goods will be shipped (their final destination) when released from their temporary customs duty suspension regime.

Example 1

Goods are shipped from India and enter the territory of the Implementing States in Bahrain, where they are imported. This is considered as an import of goods falling within the VAT jurisdiction of Bahrain.

Example 2

Goods coming from the USA enter the territory of the Kingdom of Saudi Arabia where they are immediately placed under a customs duty suspension regime because the final destination is Bahrain (transit regime). These goods are transported to Bahrain where they are released from this suspension regime and imported in Bahrain. The import of the goods falls within the VAT jurisdiction of Bahrain.

¹⁰ For example: Customs warehouse, temporary admission and transit.

6. VAT treatment in Bahrain

6.1. Introduction

A supply of goods or services taking place in Bahrain for VAT purposes can be subject to VAT at the standard rate of 10% or at the rate of 0% unless it falls within the scope of a VAT exemption.

This section provides an overview of the VAT treatment applicable to supplies of goods and services as well as imports of goods into Bahrain. A summary of the applicable VAT treatment is as follows:

Treatment	Overview	Output VAT	Input VAT
Standard rate	10% VAT applied on goods and services	10%	Deductible
Zero-rate	Supplies are VATable, but the VAT rate charged is 0%	0%	Deductible
Exempt	Supplies on which no VAT is charged and for which associated Input VAT is not deducted	N/A	Not deductible

6.2. Supplies at the standard rate of 10%

Supplies of goods and services by a VATable person in Bahrain are generally subject to VAT in Bahrain at the standard-rate of 10%, unless they are specifically subject to VAT at the zero-rate or exempt from VAT. A list of examples of standard rated goods by sector can be consulted through the following link: https://www.nbr.gov.bh/items_subject_to_vat.

Where a supply of goods or services meets the criteria for zero-rating or exemption of VAT under the VAT Law and its Executive Regulations, this will prevail over the standard-rate of 10%.

The conditions to apply VAT at the rate of 0% or to apply a VAT exemption must be interpreted strictly. Where these conditions are not met, the transaction will be subject to VAT at the standard rate of 10%.

6.3. Supplies at the rate of 0%

Zero-rated supplies are those which are VATable at the rate of 0%. This means that no VAT is actually charged on the supply, but the supplier can still claim the input VAT charged on expenses incurred in making the supply.

Certain conditions must be met for the zero-rate to apply. If these conditions are not met, the supplies will, in principle, be subject to VAT at the standard-rate of 10%, unless a VAT exemption applies.

Some examples (non-exhaustive) of supplies that are subject to the zero-rate are as follows:

Sector / Type	Supply
Exports of goods and services	Supplies to outside of the GCC
	Supply to or within a customs duty suspension regime
Transport	Domestic transportation
	International transportation
Basic needs	Basic food items
Healthcare	Medicines and medical equipment
	Healthcare services
Education	Educational services
Real Estate	Construction services for new buildings
Oil and Gas	Domestic oil and gas
Commodities	Precious stones
	Investment gold, silver and platinum

The supplies falling within the scope of the zero-rate of VAT in Bahrain are further described below.

6.3.1. Export of goods¹¹

Overview

An export of goods is a supply of goods with transport where the goods are shipped from a place in Bahrain to a place outside the territory of the Implementing States.

¹¹ See the “Imports and Exports of Goods” section of the Imports and Exports VAT Guide for further discussion

Conditions for the zero-rate to apply

For such a supply to be subject to VAT at the zero-rate, all of the following conditions must be met:

- a. The goods must be shipped from Bahrain to a destination outside the Implementing States within 90 days of their date of supply;
- b. The goods must not have been changed, used or sold to a third party before leaving Bahrain; and
- c. The supplier must retain the commercial and official documents evidencing the shipment. These include the documentation issued by Customs Affairs at the Ministry of Interior to confirm the export, the commercial document which identifies the supplier, the customer and the place of delivery of the goods together with the transportation document and the confirmation of the delivery of the goods outside the territory of the Implementing States (i.e. bill of lading, airway bill or certificate of shipment).

The person responsible for shipping the goods to a destination outside the Implementing States per (a) above can be the supplier, the purchaser or a third party acting for the supplier or purchaser.

Evidence of shipping

Where the supplier is not responsible for the shipping of the goods, it is critical that he obtains all the required documentation from the purchaser to support that the goods will be shipped to outside the territory of the Implementing States within the 90 day timeframe, and that they will not be transformed, used or sold by the purchaser before their shipping.

Where the supplier has not obtained any confirmation and evidence from the customer that the conditions for export are met, it is his responsibility to treat the supply as a local supply of goods and to account for VAT at the standard rate of 10%.

Other export transactions subject to the zero-rate

The zero-rate also applies to the following transactions:

- The supply of a good to a customs duty suspension regime provided the goods are moved into the suspension regime within 90 days from their date of supply and in accordance with the conditions for the suspension regime to apply.
- The supply of goods within a customs duty suspension regime provided the conditions for the suspension regime are all met (e.g. supplies of goods within a duty-free shop or within a customs warehouse).
- The re-export of goods temporarily imported into Bahrain for repair, conversion, restoration and processing. The zero-rate of VAT applies to the goods that became part of these goods as well as to those which became unusable or worthless as a result of their use for

the repair, restoration, conversion or processing. The goods covered here are those charged by the supplier of the repair, restoration, conversion or processing services (i.e. as part of the costs of the supply).

6.3.2. Export of services¹²

An export of services is a supply of services provided to a recipient who is not resident in Bahrain or in any other Implementing State, provided certain conditions are met.

Services falling under Articles 17 and 18 of the VAT Law (section 5.4.3 of this Guide), when their place of supply is in Bahrain, are excluded from the scope of the zero-rate for exported services (e.g. services of hotels, restaurants, catering, access to events, services related to real estate, etc.).

In order to apply the zero-rate, the resident VATable person must ensure that the following conditions are all met:

- a. The customer receiving the service is not resident in Bahrain or in any Implementing State

“Customer” must be understood as the person actually receiving the services, based on the actual nature and substance of the supply (i.e. the customer must be the actual recipient of the services).

Where there is a discrepancy between the contracting party and the actual recipient of the services, the contracting party must be disregarded and the services are to be considered as supplied to the actual recipient (i.e. the customer for the purpose of applying condition (a)).

The residence of a customer with multiple places of residence for VAT purposes has to be assessed based on the customer’s place of residence that is the most closely connected to the supply of services at stake (i.e. the place of residence actually receiving the services)¹³. A customer with a place of residence outside the Implementing States and a place of residence in Bahrain (or in an Implementing State) will be considered as non-resident in Bahrain and in the Implementing States if, for that specific supply of services, the place of residence the most closely connected is the one located outside the Implementing States. If it is not possible to assess with certainty the place of residence that is the most closely connected to the supply, the customer will be considered as resident in the Implementing States for that specific supply of services.

¹² See the “Imports and Exports of Services” section of the Imports and Exports VAT Guide for further discussion

¹³ See Appendix C for a discussion on how to determine the place most closely connected with a supply

Determining the actual recipient of the supply and his place of residence the most closely connected to the supply has to be made based on the actual nature and substance of the supply, and evidence of how the determination was made has to be kept by the supplier.

- b. The customer must not be present in Bahrain at the date the services are performed

“Presence” in Bahrain does not mean having a place of residence in Bahrain. If the customer is physically present in Bahrain, he will be considered as having a “presence” here. However, a customer will not be considered as present at the time the services are performed when his presence in Bahrain is not most closely connected to the services received.

- c. The services do not relate to tangible goods or real estate located in the territory of the Implementing States at the time the services are performed

Services related to tangible moveable goods are those which have the tangible goods as the central part of the services (e.g. repair, alteration, storage services).

Services related to real estate are those which have real estate as the central part of the services, but which do not qualify as “directly connected with the real estate” under article 16 of the Executive Regulations.

These services cannot be treated as zero-rated exported services, unless they are actually subject to VAT in the Implementing State where the goods or the real estate are located at the time of the supply.

- d. The services shall be enjoyed outside the territory of the Implementing States

The services must be received and consumed / used by the customer at a place of residence which is outside Bahrain and the territory of the Implementing States.

Where the customer has either a place of residence in Bahrain / Implementing States or a presence in Bahrain at the time of the supply, the place of residence / presence the “most closely connected” will have to be identified so as to determine whether the services are actually consumed in Bahrain or in the territory of the Implementing States.

Finally, the services must not be actually received by and benefit a person, other than the customer, who is resident in Bahrain or in an Implementing State. With regards the assessment of this condition, see the explanations given above under condition (a) regarding the notion of “customer” and “actual recipient” of the supply.

6.3.3. International transport services, supply of qualifying means of transport, related services

International transport services qualifying for the zero-rate¹⁴

International transport of goods, international transport of passengers and related services are zero-rated. In order to qualify as international transport, the services must be made or deemed to have been made using a qualifying means of transport and must involve one of the following:

- Transport of passengers or goods from Bahrain to a final destination outside Bahrain;
- Transport of passengers or goods from outside Bahrain to Bahrain as final destination; or
- Transport of passengers or goods carried out in Bahrain when it is part of an international transport of goods or passengers from Bahrain or to Bahrain.

Qualifying means of transport¹⁵

In order to be a qualifying means of transport, all of the following must be met:

- It must be a vehicle, ship or aircraft requiring a driver, pilot or crew, depending on the circumstances, to be operated;
- It must be intended for the transport of at least ten persons or for carrying goods on a commercial basis;
- Its main purpose must be to carry out international transport; and
- It must not be converted or used for recreational or personal purposes.

Related services qualifying for the zero-rate¹⁶

Services related to the international transport of goods or passengers are also subject to VAT at the zero-rate. Such services include the following:

- The supply of goods and services for use or consumption on board of the means of transport;
- Loading and unloading of machinery and equipment used for the transport of the goods, the loading of products, unloading, transporting, stowing, packaging, weighing, measuring, monitoring;

¹⁴ See the “International transport and certain associated services” section of the VAT Transportation Guide for further information

¹⁵ See the “Qualifying means of transport” section of the VAT Transportation Guide for further information

¹⁶ See the “International transport and certain associated services” section of the VAT Transportation Guide for further information

- The rental of machinery, containers and equipment used for the protection of goods intended for export;
- The security, storage, packaging of the goods intended for export;
- The formalities necessary for an export transaction, when carried out by an approved clearance agent of the Customs Department;
- Visa transactions and related services for passengers;
- Insurance for passengers.

Supply of qualifying means of transport and related services and goods

The supply of a qualifying means of transport, as defined above, is subject to VAT at the zero-rate. The supply can be by way of sale or rental.

Example

A VATable person rents out a private jet for private use. This will not be considered as a supply of a means of transport intended to be used for the international transport of passengers. Therefore, this supply will be subject to VAT at the standard-rate of 10% if it takes place in Bahrain.

The supply of goods and services related to the maintenance, repair, or conversion of a means of transport, including the supply of spare parts, consumable materials and other necessary components that are installed or incorporated in the means of transport are also subject to VAT at the zero-rate.

6.3.4. Local transport services¹⁷

The supply of transport services for goods and passengers, within Bahrain, by land, water or air is zero-rated, unless such a supply relates to any of the following:

- Supplying a rental vehicle without a driver;
- Transportation services for sightseeing or leisure purposes;
- Delivery of food by a person supplying food;
- Transportation services which are ancillary to a main supply which is subject to VAT at the standard-rate and is not priced separately (refer to section 6.7 for further detail on single composite supplies); or
- The supplier is not regulated or licensed by the relevant authorizing body in Bahrain.

¹⁷ See the “Local transportation services” section of the VAT Transportation Guide for further information

The main differences between international and local transportation zero-rating is summarized in the table below.

Transport nature	Zero-rate on transport service	Zero-rate on qualifying means of transport	Zero-rate on related services
International	✓	✓	✓
Local	✓	✗	✗

6.3.5. Supply of basic food items

The supply of food items included in the list ratified by the Financial and Economic Cooperation Committee is subject to the zero-rate provided the items are not supplied by caterers, restaurants, coffee shops or other similar establishments.

The list of basic food items qualifying for the zero-rate available on NBR website.

In order for the zero-rate to apply, the basic food items must be for human consumption.

6.3.6. Supply of medicines and medical equipment

The supply of medicines and medical equipment included on a list published by the National Health Regulatory Authority is zero-rated. For additional information please visit <http://www.nhra.bh/>.

6.3.7. Healthcare services¹⁸

The supply of preventive and basic healthcare services and associated goods and services is zero-rated.

In order to benefit from the zero-rate, the healthcare services must be qualifying medical services provided by qualified medical professionals or qualified medical institutions to a patient during the course of his treatment.

Qualifying medical services

For instance, the following healthcare services, subject to being provided to a patient during treatment by a qualified medical professional or at a qualified medical institution, are considered as “qualifying medical services”:

- General medical health services;
- Specialist medical health services, including surgery;

¹⁸ See the VAT Healthcare Guide for further information

- 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; and
- Health testing and / or screening that is undertaken under a local law, documented policy or contractual obligation.

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

Qualified medical professionals and institutions

Qualified medical professionals include persons licensed as practitioners by the National Health Regulatory Authority (NHRA) or under any other authorized medical body in the Kingdom. Qualified medical professionals include:

- Medical practitioners;
- Midwives;
- Nurses;
- Mental health specialists;
- Dentists;
- Opticians;
- Radiologists;
- Pathologists;
- Paramedics; and

- Pharmacists.

Qualified medical institutions include institutions licensed by the National Health Regulatory Authority (NHRA), or those placed under the supervision of the Ministry of Health.

Qualified medical institutions are as hospitals, physiotherapy centers, medical centers, private clinics, alternative medical centers and clinics for practicing any supporting medical professions licensed by the National Health Regulatory Authority (NHRA), or under the supervision of the Ministry of Health.

Associated goods and services

Any goods that are used in the course of performing qualifying medical services such as bandages and drugs are zero-rated. The zero-rate also applies to services provided to the patient, such as accommodation, catering and transportation of patients.

Entertainment services, lodging outside the medical institution, catering for and transportation of non-patients, and catering for employees do not qualify for the zero-rate. These are subject to the standard rate of 10%.

6.3.8. Education services¹⁹

The supply of educational services and related goods and services by kindergartens, pre-primary, primary, secondary and higher education institutions are subject to VAT at the zero-rate.

The educational 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 the vocational training is provided by a polytechnic educational institution licensed by the relevant authority in Bahrain) does not qualify as educational services for the purpose of applying the zero-rate. These services are therefore subject to VAT at the standard VAT rate of 10%.

Examples of “associated goods and services” qualifying for the zero-rate when provided by qualifying educational institutions include:

- Subscription fees, application fees or any form of administration fee;
- Printed and digital books and reading material which are educational in nature and are directly related to the curriculum;
- 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; and

¹⁹ See the VAT Education Booklet for further information

- Activities and trips organized by the educational institution for its students if these form part of the curriculum and are not predominantly recreational in nature.

The following supplies do not qualify for the zero rate:

- The provision of school uniforms
- Food and beverages supplied at the educational institution
- Stationery
- Electronic devices supplied by the educational institution
- Activities and trips organized by the educational institution for recreational purposes

6.3.9. Construction of new buildings²⁰

The following goods and services are 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.

Construction of a new building includes an extension of an existing building, but excludes other work on existing buildings such as refurbishment, restoration and conversion.

A building is a residential, commercial or industrial building, such as a dwelling, office, factory, workshop, retail store, multi-story car park, power station, oil refinery, liquified natural gas station or oil field. A building is considered as “new” when it has not been occupied yet.

The Executive Regulations set out examples of services that qualify for the zero-rate as well as examples of services that do not qualify, as shown below:

Qualifying for the zero-rate	Not qualifying for the zero-rate
<ul style="list-style-type: none"> • Construction works • Site clearance • New extension to an existing building • Services provided by engineers and surveyors and similar services of a supervisory nature 	<ul style="list-style-type: none"> • Demolition of existing buildings on the land on which the new building will be constructed • Architects’ and interior design fees • Restoration works • Any services supplied after the building has been completed

²⁰ See the “Construction” section of the VAT Real Estate Guide for further information

Goods qualifying for the zero rate are those which are supplied by the person constructing the new building in the course of the construction services. These goods must be used, installed or incorporated into the building or the land.

The Executive Regulations set out examples of goods that qualify for the zero-rate as well as examples of goods that do not qualify, as shown in the following table:

Qualifying for the zero-rate	Not qualifying for the zero-rate
<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Fixtures and equipment which are not permanently affixed to the building and which can be removed without damage to the building, or the fixtures or requirements, including: <ul style="list-style-type: none"> – 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 • Any goods supplied after the building has been completed

It is expected that construction contracts for new buildings have some components that are subject to VAT at the zero-rate and others that are subject to VAT at the 10% standard rate. Where it is the case, the agreed consideration must be apportioned, based on fair market value, between the goods and services subject to VAT at the zero-rate and those subject to VAT at the 10% standard rate.

6.3.10. Oil, oil derivatives and gas sector²¹

Upstream, midstream and downstream activities for the oil, oil derivatives and gas sector are generally zero-rated. As an exception, zero-rating does not apply to specific downstream activities such as import or supply of plastics and fertilizers.

The zero-rating applies to the following supplies:

²¹ See the VAT Oil and Gas Guide for further information

- Supply of oil, gas and other hydrocarbons (whether processed or unprocessed);
- The grant of a right to use, explore or exploit any part of Bahrain to search for, extract or produce oil, gas or other hydrocarbons;
- Oil and gas exploration services;
- Oilfield and gas field related services such as design, drilling, rig set-up, drilling, extraction, recovery, separation, evaluation, feasibility analysis, testing, seismic and geophysical surveys and repair and maintenance services;
- Specialist professional services where they are required for the exploration or exploitation of existing and / or potential oil and gas sites;
- Oil refining or gas processing services, including regasification of liquefied natural gas;
- Distribution or transportation of oil, gas or other hydrocarbons;
- The storage of oil, gas or other hydrocarbons;
- Supply of consumables that are used directly and exclusively for the making of the above supplies; and
- The purchase or lease of machinery or equipment which is used directly and exclusively for the making of the above supplies.

6.3.11. Supply of gold, silver and platinum

The following supplies of gold, silver and platinum are zero-rated in either one of the following cases:

- The first supply after extraction when this supply is carried out for trading purposes, i.e., purchased by a person who intends to use the metal for business purposes, such as to purify it, use it in a manufacturing process, etc.
- The supply of investment grade gold: Investment grade gold is a metal with purity of not less than 99%, and in a regular form/ shape (e.g., bars in regular shapes, metal coins). This will not apply to gold that is not in a regular form/ shape such as jewellery.
- The supply of investment silver or platinum: Investment silver and platinum are metals with purity of not less than 99%, which are tradable in the global bullion market and certified by the Ministry of Industry and Commerce (MoIC) or by any entity licensed by the MoIC.

6.3.12. Supply of pearls and precious stones

The supply of pearls and precious stones is zero-rated, subject to having a certificate of quality issued by the Ministry of Industry and Commerce (MoIC) or an entity licensed by the MoIC.

6.4. Exempt supplies

6.4.1. Introduction

Goods and services which are exempt from VAT are usually referred to as non-VATable supplies or VAT exempt supplies. A supplier is not required to charge VAT on these supplies and, as a result, is not entitled to recover the input VAT charged on his expenses used in making these exempt supplies. In Bahrain, the supplies set out below are exempt from VAT.

6.4.2. Real estate supplies

The sale, lease or license of a real estate is an exempt supply, regardless of whether the real estate is residential, commercial or land (e.g. bare land). Accordingly, any VAT incurred on expenses or purchases (i.e. professional legal fees, refurbishment, etc.) that is attributable to making exempt supplies will not be recoverable by a VATable person.

For the purposes of place of supply rules, “real estate” includes:

- Any area of land over which rights, interests or services can be created;
- Any building, structure or engineering work permanently attached to the land; and
- 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.

The following are not exempt supplies of real estate:

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

Where residential accommodation is provided furnished or semi-furnished, the entire consideration will be a supply of real estate, unless a separate charge is made for the furniture.

Furniture, fittings, plant and apparatus that are not attached to land or a building and which can be removed without damaging the property are not considered as real estate.

Additional information is provided in the Real Estate Guide.

6.4.3. Financial services

Financial services which are not provided in exchange for an explicit fee, commission, discount or rebate, are VAT exempt. For instance, interest income generated by making a loan, as well as the equivalent income under a Shari'ah compliant product, are considered as financial services exempt from VAT in Bahrain.

Transactions in financial instruments, the purpose of which is to generate a margin while bearing the risk of loss (e.g. currencies trading, derivatives trading), are generally VAT exempt transactions when they are not remunerated by way of a fee.

Services such as the remittance and transfer of money and issue of cheques, which are typically remunerated by way of a fee (e.g. flat fee or a percentage of the underlying amount), do not fall under the VAT exemption applicable to financial services. They are therefore subject to VAT at the standard rate of 10% unless they meet the conditions to be subject to VAT at the zero-rate as exported services.

Brokerage and intermediary services (e.g. agency services for trading securities) as well as discretionary asset management (e.g. private banking type services) are typically remunerated by way of a fee or commission (e.g. transaction fee, management fee fixed and variable). Such services do not qualify for the VAT exemption applicable to financial services when so remunerated.

A credit card typically generates both VATable income (e.g. membership fee) and exempt income (interest on the credit granted). It is also the case for letters of credit which can be subject to various fees (e.g. issuance fee, administration fee) and interest.

The provision of life insurance contracts and life reinsurance contracts as well as the transfer of such contracts are exempt financial services supplies, irrespective of the form of consideration payable for them.

The provision of general insurance is considered as a service which does not fall within the VAT exemption applicable to financial services.

The transfer of ownership of an equity or debt security is a supply of an exempt financial service, irrespective of the form of the consideration payable.

For the purpose of applying the VAT exemption, Islamic finance products provided under a written contract in accordance with the principles of Shari'ah which simulate the intention and achieve effectively the same result as a non-Shari'ah compliant financial product are treated in a similar manner as the equivalent non-Shari'ah financial products.

Additional information is provided in the Financial Services Guide.

6.5. Supplies which can be either zero-rated or VAT exempt

If a supply can fall in the scope of both the zero-rate and a VAT exemption (e.g. financial services provided to a person resident in a country outside the Implementing States), the

zero-rated treatment prevails over the VAT exemption and the supply will therefore be zero-rated.

6.6. Imports of goods

Imports of goods, when imported into Bahrain, are generally subject to VAT at the standard rate of 10%, unless they are exempted from import VAT. Imports of goods are exempt from VAT in Bahrain in the following circumstances:

- Goods imported in Bahrain which are either zero-rated or VAT exempt when they are supplied locally in Bahrain
- Import of necessities and equipment for persons with special needs, where the importer possesses the relevant documentation issued and certified by the competent authorities
- Goods imported which are exempt from customs duties in accordance with the Customs Law:
 - Diplomatic exemption
 - Military exemption
 - Returned goods
 - Import of used personal belongings and household appliances by Bahraini citizens residing abroad and foreigners who are coming to reside in Bahrain for the first time
 - Import of personal effects and gifts accompanied by a traveler

6.7. Single composite and multiple supplies

6.7.1. Introduction

If a supply is made of more than one component (e.g. two services, a service and a good), it is necessary to assess whether the supply is a “single composite supply” or “multiple supplies”.

6.7.2. Single composite supply

A single composite supply occurs when a supplier provides various goods or services (components) to a customer as a single transaction. Generally, a single fee is charged to the customer for such a supply (with or without a breakdown per component).

There is usually a single composite supply where the transaction is seen by the supplier and the customer as comprising one main supply (i.e. the component the customer specifically sought from the supplier, also known as the “principal supply”) together with other ancillary

items which are either necessary or essential for making the principal supply or to help with receiving that principal supply.

Example

A VATable person in Bahrain provides international transport services (by plane) and, as part of the fare, also provides access to a business lounge and a supply of food and beverages. The lounge and catering services are provided together with the sale of the international ticket (embedded in the fare) and one charge is made for everything supplied. In this scenario, the international flight is the main or principal supply customers are seeking from the supplier, while the lounge and catering are simply ancillary to the international flight.

On the basis that the different components supplied are considered to form a single supply for VAT purposes, a single VAT treatment will apply to the transaction as a whole. The VAT treatment applicable to the whole supply will be the one of the main components of that supply (i.e. the principal supply). In order to identify the correct VAT treatment, it is therefore critical to identify which component of the supply is the main one.

In the above example, the main component being the international flight, the single composite supply thus follows the VAT treatment applicable to the supply of international transport of passengers.

There is also a single composite supply when it would be artificial to separate the various components of a transaction, as connecting them gives the transaction its specific character. In this case, the VAT treatment will have to be determined based on the nature of the supply considered as a whole.

6.7.3. Multiple supplies

There are multiple supplies when a supplier provides various goods or services (“components”) to a customer and each component can be split and consumed separately. In this case, each component can be identified separately and the performance of one component is not necessarily dependent upon or critical to the performance of the other(s).

Generally, even when a single fee is charged, it is possible for the supplier to actually break down this fee among each component without such a breakdown being artificial. The transaction is usually viewed by the supplier as well as by the customer as comprising multiple separate supplies all of which have been specifically sought by the customer.

Example

An airline company provides international transport services and gives the option to customers to buy insurance covering the price of the ticket as well as any other risks or liabilities occurring during the holidays (e.g. medical, legal, cancellation, theft, etc.). Although the insurance is provided together with the purchase of the ticket, it will be considered as a separate supply which is optional (“add-on”) and upon which the supply of transport does not depend. In this scenario, the customer is deemed to receive two supplies from the supplier, one of transportation and one of insurance.

Where multiple supplies are performed for a customer, the VAT treatment for each supply will need to be considered.

Where a single fee is charged, this fee will have to be split in order to allocate to each supply the relevant portion of the consideration and apply the relevant VAT treatment.

In the above example, the supply of transport will follow the VAT treatment applicable to the supply of international transport of passengers while the supply of insurance will follow the treatment applicable to insurance. The supplier will be required to separately identify the fee to be received for each supply.

Where the amount invoiced cannot be split and allocated to each separate supply, then the highest rate of VAT applies on all the supplies, irrespective of the fact that some supplies should, in principle, be exempt or subject to VAT at the zero-rate.

7. Person liable to pay VAT

7.1. Introduction

This section covers the principles to identify the person liable to pay VAT due on a given transaction (output VAT) to the NBR. The person liable for output VAT is the person responsible for accounting for the VAT due on a VATable transaction, reporting this VAT as output VAT in his VAT return and paying it to the NBR.

7.2. Supplies of goods and services - general rule: supplier is liable

Unless the special rule applies, the person liable for the VAT applicable on a VATable supply of goods or services, including a deemed supply, is the supplier. Also, any person who charges an amount of VAT on an invoice is liable to pay this VAT to the NBR, irrespective of whether this VAT was actually applicable.

7.3. Supplies of goods and services - special rule: customer is liable (reverse-charge mechanism)

7.3.1. Overview

Under this special rule, the VAT liability for certain VATable transactions is shifted from the supplier to the customer. In such cases, the customer becomes the one liable to account for the VAT due on the supply as output VAT and to report it in his VAT return. This is called the reverse-charge mechanism.

There are cases where the reverse-charge mechanism is by default and cases where it is an option subject to the NBR's approval.

7.3.2. Reverse-charge mechanism for supplies made by non-resident suppliers

In Bahrain, the reverse-charge mechanism is applicable by default in the following circumstances:

- Supplies of services subject to VAT in Bahrain when purchased by a VATable person in Bahrain from a supplier who is not resident in Bahrain; and
- Supplies of goods subject to VAT in Bahrain when purchased by a VATable person in Bahrain from a supplier who is not resident in Bahrain.

From a practical point of view, this reverse charge mechanism allows for a non-resident supplier to supply goods or services subject to VAT in Bahrain without being required to register for VAT in Bahrain.

Where a non-resident supplier supplies goods or services subject to VAT in Bahrain to customers who are not VATable persons, the reverse charge mechanism does not apply. In this case, the supply falls within the general liability rule and the non-resident supplier will likely be required to register for VAT in Bahrain in order to charge VAT on his supplies.

7.3.3. Domestic reverse-charge mechanism

The VAT legislation provides for a reverse charge mechanism to apply on certain domestic supplies. In order for it to apply, certain conditions must be met, an application must be made to the NBR and the NBR must approve this application.

Once the NBR approves the application, the supplier can apply the reverse-charge mechanism on the services and goods purchased from local suppliers which are specified in the approval, provided he can recover the related input VAT in full.

The conditions to be met in order to be eligible to apply for the domestic reverse charge mechanism to apply on the receipt of certain goods and services are as follows:

- The applicant must be a VATable person;
- The applicant must evidence that the total amount of his intra-GCC supplies and exports exceeds 50% of the total value of his supplies; and
- The applicant must provide reasonable grounds that he will be in a recurring net VAT recoverable position and that this will have a material impact on his financial position.

Where the application is approved, the NBR will issue a certificate allowing the VATable person to apply the domestic reverse charge mechanism. The VATable person will need to give a copy of this certificate to his suppliers so that they do not charge VAT on supplies made to him.

The VATable person must notify the NBR within 30 days when he ceases to meet the conditions to benefit from the domestic reverse charge mechanism. The NBR will then revoke the approval.

This domestic reverse-charge mechanism allows VATable persons with significant supplies either subject to VAT at the zero-rate or occurring outside the territorial scope of Bahrain VAT to mitigate the negative cash flow impact of the VAT incurred on their business expenses.

7.3.4. Reverse-charge mechanism and input VAT recovery

Output VAT due by a VATable person under the reverse-charge mechanism is also input VAT for that VATable customer (i.e. it is VAT incurred on business expenses). Therefore, the VATable person may also be able to claim this input VAT in his VAT return (subject to the normal input VAT recovery rules).

As a result, if the VATable person is entitled to full recovery of input VAT, the reverse charge mechanism will lead to a full net-off cash position where the amount of output VAT due under

the reverse-charge mechanism can be fully netted against the same amount reported as recoverable input VAT.

Example

A VATable person in Bahrain receives interior design services for his offices in Bahrain from a non-resident supplier. As the services relate to real estate located in Bahrain, their place of supply is in Bahrain (i.e. where the real estate is located). Under the VAT Law, such services are subject to VAT at the standard rate of 10%.

As the supplier is non-resident and the customer is a VATable person in Bahrain, the person liable for the VAT due on these services is the customer, under the reverse-charge mechanism.

The fee for the services is BHD 20,000. The customer will self-account for VAT at 10% (i.e. BHD 2,000), will record this amount on the invoice received from the supplier and will treat this VAT as output VAT due.

- *If the customer can recover input VAT in full:*

The customer is using this expense for making VATable supplies and can therefore recover the VAT charged on it in full. The customer will therefore be able to treat BHD 2,000 as recoverable input VAT.

The net amount of VAT due by the customer to the NBR for this specific supply is nil since the output VAT due is fully netted against the recoverable input VAT which is the same amount.

- *If the customer can only partially recover input VAT:*

If the customer is only entitled to recover 50% of the VAT incurred on this business expenses (i.e. it uses the expense for making both VATable and exempt supplies), he will only be able to recover BHD 1,000 as recoverable input VAT (i.e. 50% of BHD 2,000).

The net amount of VAT due by the customer to the NBR on this supply will therefore amount to BHD 1,000 (i.e. BHD 2,000 output VAT less BHD 1,000 recoverable input VAT).

7.4. Import of goods - importer is liable

The person liable to pay Bahrain VAT on importing goods is the importer of record for customs purposes.

8. Value of supply and VAT due date

8.1. Introduction

Once a person has determined that he must account for VAT at 10%, he needs to identify the amount on which VAT applies (i.e. the value of supply) and the date on which this VAT becomes due (i.e. the VAT due date).

The VAT Law and Executive Regulations contain rules to determine the value of a supply and the VAT due date. These are discussed below.

8.2. Value of supply

8.2.1. General

The value of supply is the amount on which the 10% rate of VAT is applied. The value of a supply is always considered exclusive of VAT (since VAT applies on top of it).

Prices displayed in the local market are always deemed to be inclusive of VAT. For such prices, in order to calculate the VAT amount and the VAT exclusive value of the supply (where it is subject to the standard rate of 10%), the following formula should be applied:

Value of supply:	Displayed price ÷ 1.1
VAT amount (at 10%):	Displayed price ÷ 11

The only case where a displayed price can be considered as being exclusive of VAT is when it relates to an export of goods or an export of services and it is clearly stated that the price is exclusive of VAT.

The VAT Law and Executive Regulations provide the valuation rules to be followed when determining the value of a supply and the value of an import of goods for VAT purposes.

8.3. Supplies of goods and services

8.3.1. General valuation principles

Determination of the value

The value of a supply of goods or services corresponds to the total remuneration earned by the supplier for the supply performed.

The value of the supply together with the VAT charged on it are called the “consideration” for the supply. Consideration is all that is received or expected to be received by the VATable supplier from the customer or from a third party in exchange for the supply of Goods or Services, inclusive of VAT.

The value of supply for supplies of goods and services includes everything that the supplier receives from the customer or from a third party for the supply, whether in cash, in kind or both. The value of the remuneration received in kind (i.e. non-monetary) should be determined based on its fair market value (discussed later in this section).

When computing the value of a supply, the supplier must include all the costs and expenses imposed on the customer, including any duties and / or taxes, but not VAT. This includes transportation and insurance costs, packaging, delivery charges, administrative fees and out of pocket expenses.

Discount and reduction in the value

The value of the supply must be reduced by the following amounts, and VAT must be calculated after the value is reduced by them:

- Any discounts provided by the supplier where the discount is granted at the date of the supply;
- Subsidies granted to the supplier by government bodies;
- Disbursements paid by the supplier in the name and on behalf of the customer;
- Any compensation or punitive amount paid to the supplier as a result of the customer's default; and
- Deposits which are refundable and are not considered as an advance payment for the supply.

Where the discount is provided after the date of supply, the supplier should issue a VAT credit note for the amount of the discount and the related amount of VAT.

Example

A local restaurant provides a meal to a customer for BHD 5 (exclusive of VAT) with a service charge of 2% and a discount of 10% for loyal customers:

- *The value of the supply is BHD 4.600 (i.e. $5 + 0.1 - 0.5$)*
- *The VAT due is BHD 0.460 (i.e. $10\% \times 4.600$)*
- *The consideration for the supply (i.e. inclusive of VAT) is BHD 5.060*

Remuneration in kind - fair market value

If a supply is remunerated (in part or in full) by a non-cash component, the value of the non-monetary component is determined by reference to its fair market value. The fair market value is the fair price tradeable in the market between two independent parties under similar circumstances at the same date as the date of the supply and in accordance with the following free competition conditions:

- Neither the supplier nor the customer is subject to any kind of commercial pressure;
- Both the supplier and the customer independently work to achieve what is in their best interest; and
- The transaction is made within a reasonable period of time (i.e. no time pressure).

Where the fair market value cannot be assessed using the value of an identical supply in competitive conditions, the supplier may refer to the fair market value of a similar supply. In such conditions, a similar supply would be any other supply of goods or services where the characteristics such as quantity, quality, usage, components or delivery are the same, or closely resemble the supply.

Example 1

A coffee shop that is a VATable person in Bahrain launches a commercial campaign whereby customers can exchange one used book for a smoothie and a pastry. The book given by the customer is considered as remuneration in kind for the goods supplied by the coffee shop. The value of the coffee shop's supply of goods to the customer is the fair market value of the book received from the customer and VAT applies on this value.

Example 2

Company A supplies a computer to Company B. In exchange for this supply, Company B gives a set of routers to Company A. Both Company A and Company B are VATable persons.

From a VAT point of view, this exchange of goods is a barter transaction which comprises two distinct supplies. As neither of these two distinct supplies is made for cash consideration, but for payment in kind, the value of each supply has to be assessed based on the fair market value of the payment in kind received:

- *The value of Company A's supply of a computer is the fair market value of the internet routers received from Company B; and*
- *The value of Company B's supply of internet routers is the fair market value of the computer received from Company A.*

If the market value amounts to 80 BHD for the internet routers and 100 BHD for the computer, Company A will have to account for VAT of BHD 8 on its supply of the computer to Company B (i.e. 10% of 80 BHD) and Company B will have to account for VAT of BHD 10 on the supply of internet routers to Company A (i.e. 10% of 100 BHD). Each company will be required to report the respective VATable supply in its VAT return.

Value in a foreign currency

When the value of a supply is expressed in a foreign currency, it must be converted into Bahraini Dinars using the relevant exchange rate at the VAT due date as approved by the Central Bank of Bahrain. The VAT amount must be shown in Bahraini Dinars.

8.3.2. Specific valuation rules

Supplies subject to the reverse-charge mechanism

For supplies where the recipient is liable to pay the VAT due under the reverse-charge mechanism, the value of these supplies is the purchase price paid by the recipient to the supplier. Where the purchase price cannot be determined, the value of the supply will be its fair market value on the date it is received. The fair market value in this instance is determined using the same criteria for remuneration in kind explained above.

Supplies between related persons

The value of a supply of goods or services between related persons must be the fair market value where the following conditions are met:

- The value of the supply is less than its fair market value; and
- The recipient of the supply is not entitled to recover in full the VAT charged.

Fair market value in this instance is determined using the same criteria for remuneration in kind as discussed above.

The VAT Law defines “related persons” as:

“Two or more persons where one has the authority to direct and supervise the other Person(s), where he holds an administrative authority enabling him to influence the work of the other Person(s) from a financial, economical or organizational point of view.”

Example

A Bahrain bank receives IT services from its 100% owned Bahrain subsidiary which owns and operates the IT infrastructure used by the bank.

VAT due on this supply must be accounted on the fair market value of the services.

The NBR can request evidence that the VAT has been calculated based on the fair market value of the goods or services. If this is not provided with evidence within thirty days from the date of the request, or if the NBR finds that the value used is lower than the fair market value, the NBR can substitute the value used with the fair market value and calculate the VAT due on this basis.

Vouchers

See section 4.6 for information on the VAT treatment of vouchers.

The value for the supply of a voucher (i.e. where a voucher is issued or sold for a consideration higher than its face value) is the difference between the consideration received by the issuer or seller of the voucher and the face value of the voucher. This difference (i.e. the mark-up) is considered to be inclusive of VAT.

To segregate the value of the supply of the voucher from its attached amount of VAT (at 10%) the following formulae apply:

- Value of the supply: $\text{Mark-up} \div 1.1$
- Related amount of VAT (at 10%): $\text{Mark-up} \div 11$

The value of a single purpose voucher is the consideration received by the issuer or seller of the voucher, without exceeding the voucher's face value. As the consideration is considered inclusive of VAT, the following formulae apply in order to segregate the value of the single purpose voucher from its attached amount of VAT (at 10%):

- Value of the supply: $\text{Consideration received (not exceeding face value)} \div 1.1$
- Related amount of VAT (at 10%): $\text{Consideration received (not exceeding face value)} \div 11$

The value of a multi-purpose voucher is the last consideration paid to acquire the voucher that is exchanged. When such consideration is not specified, the value of the voucher is its face value. As the consideration is considered inclusive of VAT the following formulae apply in order to segregate the value of the single purpose voucher from its attached amount of VAT (at 10%):

- Value of the supply: $\text{Last consideration paid for the voucher or Face value} \div 1.1$
- Related amount of VAT (at 10%): $\text{Last consideration paid for the voucher (or Face value)} \div 11$

Supplies made under the profit margin scheme

For supplies of goods made under the profit margin scheme, VAT is due on the margin realized by the supplier. The margin is the difference between the selling price of the goods and their acquisition price. This margin is considered inclusive of VAT.

To segregate the value of a supply under the profit margin scheme the VAT amount (at 10%), the following formulae should be applied:

Value of the supply:	$\text{Margin} \div 1.1$
Related amount of VAT (at 10%):	$\text{Margin} \div 11$

Please see section 16 of this Guide for more details on the profit margin scheme.

Single composite supplies and multiple supplies

For a single composite supply (covered in section 6.7 of this Guide), the value of the supply is the value of the main supply together with the value of any ancillary supplies. Where there are multiple supplies and the supplier cannot allocate a value to each supply, VAT is applicable on the total value of the supplies.

Value where the price is not fixed at the date of supply

For supplies of goods and services where the value of the supply is not certain at the date of the supply because of factors still unknown at that date based on the terms and conditions of the contract, the value of the supply must be based on the expected value of the supply.

An adjustment should be made once the value is ultimately finalized. This adjustment should be evidenced and recorded by the supplier issuing a VAT debit or a VAT credit note.

Example

A VATable person contracts with a third party for a supply of goods. They agree that the selling price of these goods (exclusive of VAT) will be fixed 90 days after their delivery, based on a specific market index.

The date of supply of these goods is the date when they are delivered to the purchaser. Therefore, VAT becomes due at that time on a value which is not fixed yet by the parties. The value of the supply for VAT will therefore be based on the expected value of the goods.

Once the final value is known (after 90 days) the supplier will be required to adjust the value initially used and to issue a VAT credit note (where the final value is lower than the expected one) or a VAT debit note (where the final value is higher than the expected one).

Deemed supplies

The value of a deemed supply of goods or services is determined as follows:

- Purchase price or, if not known, total actual cost incurred for the goods;
- Total actual cost incurred for the services (i.e. all the costs incurred by the VATable person so as to provide the services);
- Where neither of the above is available, the fair market value of the goods or the services.

The same valuation rules apply where a VATable person transfers his own goods to an Implementing State from Bahrain, or vice versa, and this transfer is treated as a supply of goods.

Where a deemed supply of goods occurs as a result of a VATable person ceasing his economic activity, the value of the deemed supply is the fair market value of the goods held at the time of the VATable person's deregistration.

Example 1

A VATable person bought a watch for BHD 660 (VAT inclusive) and recovered the related VAT (i.e. BHD 60) in full. The VATable person presented this watch as a gift to a retiring employee. The gift is a deemed supply of goods and the VATable person is required to account for VAT on it. The value of the deemed supply corresponds to the purchase price of the watch, i.e. BHD 600. Therefore, the VATable person has to account for VAT on the BHD 600 (i.e. BHD 60), report this VAT in his VAT return as output VAT to pay it to the NBR.

Example 2

Where a VATable person repairs watches for free as an incentive to win future customers, it will be considered to be making a deemed supply of services. It should assess the value of the services based on their actual cost. Where it is not possible to determine the actual cost of the services, the amount of the deemed supply will be their fair market value. The supplier will be required to account for VAT on this value, report it in its VAT return as output VAT and pay it to the NBR.

8.3.3. Adjustment to the value of a supply and related output VAT

A VATable person should adjust the value of a supply, and therefore the related amount of output VAT, where there is a modification or material change in the nature of the supply which leads to an increase of the amount of VAT due.

A VATable person may adjust the value of a supply, and therefore the related amount of output VAT, when one of the following events occurs after the date of supply:

- The supply is cancelled or refused (in full or in part);
- The value of the supply is reduced (e.g. discount granted after the sale occurs);
- The goods are returned and the supplier accepts the return; or
- The payment of the consideration is not received (in full or in part) within 12 months of the date of the supply and the procedure for a bad debt relief has been followed (see section 15 for more information on relief for bad debts).

Where a VATable person adjusts the value of a supply and the related amount of VAT, he must issue a credit or debit note evidencing this. Please see section 9.10 on invoicing requirements.

A VATable person is also required to adjust any output VAT that was incorrectly charged on a supply.

8.4. Imports of goods

8.4.1. Value of imported of goods

The value of imported goods is the customs value as determined under the Customs Law. Customs duties and excise need to be added to the customs value in order to determine the value of the goods which is subject to VAT.

8.4.2. Value of goods re-imported after a temporary export

Where goods are re-imported into Bahrain after having been temporarily exported outside of the territory of the Implementing States for repair, completion of manufacturing or any other similar services, the value of the goods at re-import corresponds to the value added to the goods while they were temporarily exported, in accordance with the provisions of the Customs Law.

Example

A machine located in Bahrain is exported temporarily for repair in Europe. On re-importation of the machine into Bahrain, import VAT will be applicable on the value added to the machine while it was in Europe, in accordance with the valuation under the Customs Law.

8.4.3. Adjustment in the value of goods imported

If, after goods have been imported, the supplier of these goods grants a discount, such discount will not affect the value of the goods as initially used for computing the VAT due at import, unless the customs value of these goods is itself adjusted because of such a discount. Where no adjustment of the customs value is made, the VAT liability of the importer will not be impacted and the importer should not make any adjustment to his VAT return to reflect the discount.

8.5. VAT due date

8.5.1. Overview

The VAT due date refers to the time when VAT becomes chargeable on a VATable transaction. This is particularly important in order to determine the timeframe for charging VAT, issuing documentation such as VAT invoices, VAT credit notes and VAT debit notes, reporting in the relevant VAT return and payment of VAT to the NBR.

The VAT Law and Executive Regulations set out the general rules in order to define the VAT due date for supplies of goods and services as well as the special rules applicable to certain types of transactions. Imports of goods have their own VAT due date rule.

8.5.2. Supplies of goods and services

General VAT due date rules

The general VAT due date rules apply for all supplies of goods and services unless they fall under a special rule.

For supplies of goods, the VAT due date is the earliest of:

- The date of the supply of goods;
- The issue of a VAT invoice for that supply; and
- The receipt of a payment for that supply (to the extent of the amount received).

The date of supply of goods is:

- The date where the transport starts, where the goods are supplied with transport and the transport is supervised by the supplier.
- The date the goods are put at the disposal of the customer, where the supply is without transport or with transport which is not supervised by the supplier.
- The date on which the installation or the assembly of the goods was completed, where the goods are supplied with installation and assembly.

Example

A VATable person resident in Bahrain sells goods in Bahrain for BHD 1 million (excluding VAT) to a customer in Bahrain. The customer paid BHD 100,000 as an advance payment on 1 March. The goods were delivered on 15 March and a VAT invoice was issued on 28 March. The customer is obliged to pay this invoice within 30 days.

Here, there are two VAT due dates for this supply:

- 1. The advance payment received on 1 March: VAT becomes due on the advance payment of BHD 100,000;*
- 2. The delivery of the goods to the customer on 15 March: VAT becomes due on the amount remaining to be paid (i.e. BHD 900,000).*

The position with regards some specific supplies of goods:

- Supplies of goods with payment by instalment generally follow the general VAT due date rules explained above.
- For goods deposited with another person to sell, i.e. where the supplier (consignor) deposits goods with another person (consignee) for that person to sell them: the date of the supply of the goods by the consignor to the consignee is the date of the supply of the goods by the consignee to his customers.

Example

A phone manufacturer sends phones to a telecommunications provider on a consignment basis on 3 August. The phones are stored by the consignee for six months and will be returned to the consignor if not sold by the end of that period. On 5 September, the telecommunications provider sells 50 phones to its customers. The date of the supply of the phones between the phone manufacturer and the telecommunications provider is on 5 September, for the 50 phones.

For supplies of services, the VAT due date for this supply is the earliest of:

- The date of the supply of the services;
- The issue of a VAT invoice for that supply; and
- The receipt of a payment for that supply (to the extent of the amount received).

The date of the supply of the services is the date on which the services are considered as completed, for example:

- When the agreed work is completed;
- When the customer receives and explicitly approves the service; or
- When the customer issues a certificate of completion.

Where a customer subsequently requests a secondary or additional service, this will be considered as a new supply which will not affect the date of supply of the primary service.

Example

A VATable person in Bahrain provides an alteration service to a customer located in Bahrain. The services are finished on 28 February. On that same day, the customer comes, checks and picks up the goods and also pays for the services supplied. Here, the VAT due date for the supply of the alteration services is the date of supply of the services, i.e. 28 February.

Two weeks later, the customer asks the person subject to VAT to change the alteration work originally carried out. This request does not impact the VAT due date for the supply of the initial alteration work already completed.

Special VAT due date rules

In certain cases, supplies of goods and services follow special VAT due date rules. These special cases and their relevant rules are as follows:

Supply	Special rule	Example
Continuous supply involving periodic payments or consecutive invoices	<p>VAT due date is the earliest of:</p> <ul style="list-style-type: none"> • Date of issue of VAT invoice (to the extent of the amount invoiced); • Due date for payment as specified on the VAT invoice (to the extent of the payment due); and • Date of receipt of the payment (to the extent of the amount received). <p>When none of the above occurs within 12 months of the start of the supply, a VAT due date will be triggered at the end of this 12-month period and at the end of any subsequent 12-month periods if none of the above occurs in the meantime.</p>	<p>On 5 April, a customer enters into a contract for the provision of water and electricity for his house, with a monthly direct debit on the 15th of each month.</p> <p>A VAT due date will be triggered every 15th of each month to the extent of the amount actually paid, unless a VAT invoice is issued before that day.</p>
Supply of goods deposited, and supply of goods pledged as collateral	<p>VAT due date is the earlier of:</p> <ul style="list-style-type: none"> • The bailee or creditor selling the goods; and • The bailee or creditor deducting a cash amount deposited as a bond in order to definitively acquire the Goods. 	<p>In January 2019, Company A (bailor) pledges a property in order to be granted a loan with Company B (bailee), a VAT registered company.</p> <p>If Company A defaults and Company B seizes and sells the property, a VAT due date will be triggered at the time Company B sells the property.</p>
Supply of goods provided on a trial basis	<p>VAT due date is the earlier of:</p> <ul style="list-style-type: none"> • The buyer accepting the goods on a definitive basis; and • The date of issue of an invoice. 	<p>A company sells innovative kitchen appliances. It usually places the goods with prospective customers for a given trial period of 30 days and, at the end of this period, the customers can</p>

Supply	Special rule	Example
		<p>either keep the goods or return them.</p> <p>The general terms and conditions applicable to the trial clearly state that if the goods are not returned at the expiry of the trial period, the customers are considered as having accepted the goods on a definitive basis.</p> <p>One of the customers did not return the goods at the expiry of the 30-day trial period. The company issues an invoice the day after.</p> <p>The VAT due date is triggered on the day the trial period ends, as the customer is viewed as having accepted the kitchen appliance on a definitive basis.</p>
<p>Operating lease</p> <p>(Contract whereby the lessee benefits from the use of an asset for a specified period of time where, at the end of the lease period, the asset is returned to the lessor and the lessee does not bear any risk related to the ownership of the asset)</p>	<p>VAT due date is the earlier of:</p> <ul style="list-style-type: none"> • The due date of each instalment under the contract; and • The date an instalment is paid. 	<p>A VATable supplier leases a car to a company. The leasing contract signed on 15 September contains quarterly billing with a first payment due on 1 October, and subsequent payments due on 1 January, 1 April and 1 July, each of them for a value equal to three months' rent.</p> <p>The VAT due dates are respectively 1 October, 1 January, 1 April and 1 July, unless a payment is received beforehand where the VAT due date would be</p>

Supply	Special rule	Example
<p>Finance lease</p> <p>(Contract for the lease of an asset under which the lessor transfers substantially all the risks and rewards relating to the ownership the asset to the lessee).</p>	<p>VAT due date is the date of the supply of the goods</p> <p>(Where the contract contains a purchase option exercisable at the end of the contract, VAT becomes due on the purchase value of the goods on that VAT due date)</p>	<p>the date the payment is received.</p> <p>A bank finances the acquisition of a drilling machine under a hire-purchase agreement. The machine is delivered to the customer on 1 February 2019 with instalments to be collected every month until July 2020.</p> <p>The VAT due date for the supply of the drilling machine by the bank to its customer is on 1 February 2019, i.e. the day it is put at the disposal of the customer (for the purchase value of the machine).</p>
<p>Supply of goods with a right of refund</p>	<p>VAT due date is the date of the supply of the goods.</p>	<p>A VATable person sells goods to a customer on 9 May 2019. These goods can be returned and refunded as per the conditions of the contract.</p> <p>The VAT due date is 9 May, when the goods were put at the disposal of the customer.</p>

Supply	Special rule	Example
Supply of goods through a vending machine	VAT due date is the date where the amount stored in the vending machine is collected. For machines that accept card payments only, the VAT due date is the date that each payment is credited to the supplier's bank account. ²²	<p>A company sells water bottles through a vending machine. The machine is filled with bottles on 2 March 2019. Between 2 March and 15 March, 32 bottles are sold. On 15 March, an employee comes to collect the money stored in the vending machine.</p> <p>The VAT due date for the 32 water bottles is 15 March.</p>
Compulsory supply of goods	VAT due date is the date of supply of the goods.	On 8 June, the Authorities notify a VATable person of the decision to buy part of that person's assets. The assets must be disposed of by 8 August. The VATable person sells the assets on 2 August. The VAT due date is 2 August.
Supply of a voucher (i.e. where a voucher is issued or sold for consideration higher than its face value)	<p>VAT due date for the supply of the voucher is the date of issue of the voucher.</p> <p>If it is subsequently sold, the VAT due date for that sale is the date of that subsequent sale.</p>	<p>A company is in possession of a voucher with a BHD 55 face value. The company sells this voucher to a third party at a price of BHD 60.</p> <p>The mark-up of BHD 5 charged by the seller of the voucher (i.e. BHD 60 - BHD 55) is the consideration for the sale of the voucher.</p> <p>The VAT due date for the sale of the voucher is the date of its supply by the company.</p>

²² See the "Vending machines" section of the VAT Retail and Wholesale Guide

Supply	Special rule	Example
Single purpose voucher (SPV)	<p>VAT due date is the date of issue of the SPV.</p> <p>If it is sold onwards, the VAT due date for that sale is the date of that subsequent sale.</p>	<p>A customer purchases a voucher for internet data (for local use only) on 14 July 2019 and exchanges the voucher on 4 August.</p> <p>The VAT due date for the supply of the SPV is 14 July, the day the voucher was purchased by the customer.</p> <p>No VAT event happens at the time the customer exchanges the SPV for the services as the VAT event occurred earlier (i.e. at the time the customer acquired the SPV).</p>
Multi-purpose voucher (MPV)	<p>VAT due date is the date on which the MPV is exchanged for goods or services.</p>	<p>On 20 June 2019, a customer purchases a gift card which is an MPV (i.e. it can be used to buy electronics as well as food items).</p> <p>On 10 July 2019, the gift card is used to buy certain items.</p> <p>The VAT due date for the supply of the MPV is 10 July 2019, i.e. the date of exchange of the voucher for the goods.</p> <p>No VAT event occurs at the time the customer purchases the MPV.</p>
Deemed supply	<p>VAT due date is:</p> <ul style="list-style-type: none"> For goods or services provided for no consideration: where the goods are made available to the third party or where the 	<p>Where a company offers awards and gifts to its employees (above the low value gifts threshold), the VAT due date will be the</p>

Supply	Special rule	Example
	services have been completed <ul style="list-style-type: none"> For goods the VATable person retains upon deregistration: the effective date of deregistration For transfer of the VATable person's own goods from Bahrain to another Implementing State or vice versa: date of start of the transfer For the change in the use of a good: date where the change occurred. 	date on which the goods are given to the employees.

Continuous supply

A supply is generally considered as continuous when it is provided on a continuous or recurrent basis for a period of time and under terms that provide for the consideration to be determined and/or payable periodically or from time to time.

Continuous supplies are typically supplies which cannot be considered as finished or completed until such time that either the contract ends (if the contract is for a specific duration) or one of the parties decides to terminate it (if the contract is open ended).

Examples of continuous supplies include:

- Membership of a club;
- Subscription to a newspaper;
- Management services;
- Insurance services;
- Ongoing professional services or a retainer for professional services;
- Phone and internet plan;
- Water and electricity contract (as utilities for consumption purposes); and

- Recurring delivery of goods under a specific contract (e.g. six-month contract for the weekly delivery of stationery, payable on a monthly basis).

The supply of a specifically agreed project (e.g. a one-off supply such as the delivery of a specific study report or the construction of a specific good) is not, in principle, a continuous supply even if the completion of this project may take a certain amount of time. It therefore follows the general VAT due date rules. However, if the project is subject to staged or periodic payments (e.g. milestone payment per stage of completion) agreed between the parties, the one-off project will be considered as a continuous supply and will therefore follow the VAT due date rules applicable to continuous supplies.

An example of such a project is an Engineering Procurement Construction (EPC) contract for the construction of a plant, which envisages completion by phases with milestone payments.

A good supplied with payment of its price by instalments (with or without an additional financing charge) is not a continuous supply. This supply is subject to the general VAT due date rules. If a financing element is attached to the sale (e.g. credit sale), this financing component will be a continuous supply of services.

8.5.3. Imports of goods

The VAT due date for imports of goods is the date on which customs duties on these goods are due in accordance with the Customs Law (or on the day where they would due where none apply). Customs duties are due:

- When goods enter the territory of the Implementing States and are imported; or
- When goods are released from a customs duty suspension arrangement, if they were placed under one of these arrangements upon entry into the territory of the Implementing States.

8.6. Payment of VAT due

8.6.1. Introduction

Once a person has identified that VAT is due on his supply of goods or services or on an import of goods, he must pay this VAT to the NBR in accordance with the relevant payment procedure.

8.6.2. Payment of output VAT due on supplies of goods and services

The payment of output VAT to the NBR is made through filing periodic VAT returns.

The person liable to pay the VAT applicable on a VATable supply of goods or services or on a deemed supply (see section 7 which deals with the person liable for output VAT in Bahrain) is required to declare and pay this output VAT to the NBR by reporting it in the VAT return covering the VAT period during which the supply occurred, in accordance with the relevant date of supply rules.

Any adjustment in the value of a supply and related amount of output VAT should also be reported in the VAT return covering the VAT period during which the adjustment took place.

The declaration and payment requirements above apply to:

- Any VATable person liable to charge Bahrain VAT on his supplies of goods or services;
- Any VATable person making deemed supplies of goods and services in Bahrain;
- Any VATable person purchasing goods or services subject to Bahrain VAT and liable to account for that VAT under the reverse-charge mechanism.

8.6.3. Payment of VAT due on imports of goods

General rule

VAT due on imports of goods is payable by the importer of record to Bahrain Customs at the point of import before they are released for general circulation. Bahrain Customs Affairs will collect the VAT using the same procedures for payment of customs duties and Excise.

Agents acting on behalf of a non-registered person

When an agent who is registered for VAT in Bahrain imports goods on behalf of a person who is not registered for VAT in Bahrain, that agent is obliged to pay the VAT due on the import prior to the release of the goods.

The agent is not entitled to claim recovery of that import VAT in his VAT return. Instead, that agent should seek a refund of that VAT directly from his client.

Payment of import VAT by a person registered for VAT in Bahrain

A VATable person registered for VAT in Bahrain can claim VAT paid on his imports of goods provided the conditions for input VAT recovery as provided by the VAT Law and the Executive Regulations are all met (please see section 10 for further details).

In practice, import VAT can be recovered as input VAT in the VATable person's VAT return for the VAT period during which all the conditions for input VAT recovery are met. This is expected to be the VAT return for the VAT period during which the import of the goods took place and import VAT was paid to the Bahrain Customs Affairs.

Deferral of import VAT for importers that are VATable persons in Bahrain

The payment of import VAT by an importer who is a VATable person in Bahrain may be deferred to the submission of the importer's next VAT return. The VATable person who wants to use the deferral must seek authorization from the NBR.

The NBR may allow the deferral of payment of VAT on import if the following conditions are met:

- The importer is registered for VAT purposes in Bahrain; and
- The importer undertakes:
 - To maintain, and submit upon request, records and documents enabling the NBR to verify the import procedures and the correctness of the calculation of the VAT due;
 - To cooperate and comply with any requests made by the NBR in relation to imports; and
 - To declare the VAT due on the VAT return for the VAT period during which the import occurred.

Where the importer has received authorization to defer import VAT, he must provide his VAT Account Number to Bahrain Customs Affairs in order for the goods to be released.

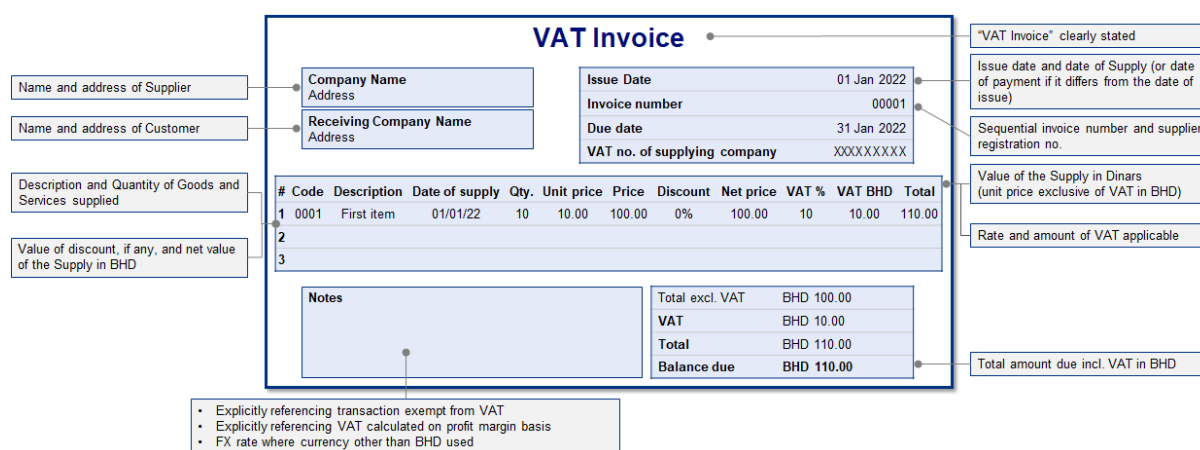
The importer is required to account for the VAT due on his imports of goods (as output VAT). He may also be eligible to recover this VAT as input VAT (subject to the normal input VAT recovery rules). In this case he will be able to also report this VAT as recoverable input VAT within the same VAT return (provided all the conditions for recovery are met at that time, including the customs documentation supporting the deferral of payment).

9. VAT invoices

9.1. Introduction

A VATable person making supplies of goods or services in Bahrain is required to issue VAT invoices and, depending on the circumstances, other documents. The purpose of this section is to highlight the obligation of a VATable person to issue this documentation together with the requirements that these documents must meet.

Illustrative example of a VAT Invoice



9.2. Principles

9.2.1. The person required to issue a VAT invoice

A VATable person must issue VAT invoices in respect of supplies of goods and services made by him in Bahrain, whether these supplies are made to resident persons or to non-resident persons. Furthermore, a VAT invoice must be issued by a VATable person when making a deemed supply of goods and services. A VAT invoice must be delivered to the customer.

A VAT registered person may issue and retain VAT Invoices, credit and debit notes and other documents that evidence his supply in an electronic form. Persons registered for VAT in the Kingdom of Bahrain who meet the requirements set out in Articles 52, 53 and 54 of the VAT Executive Regulations in relation to VAT invoices, credit and debit notes, and whose computer systems are capable of accounting for VAT on their supplies will be eligible to issue electronic documents without obtaining prior approval from the NBR.

Where a VAT invoice is damaged or lost, the supplier may issue another identical invoice setting out clearly that the replacement invoice was issued as a substitute to the original VAT invoice. Any copy of an original VAT invoice must clearly be marked with "Duplicate of original".

9.2.2. Due date to issue a VAT invoice

A VAT invoice must be issued at the latest by the 15th day of the month following the month during which a VAT due date was triggered. Any delay in the issue of a VAT invoice is subject to penalties.

9.2.3. Simplified VAT invoice

Generally, a VAT invoice needs to contain detailed information relating to the supplier, the customer and the supply, as described below. However, a VATable person may issue a simplified VAT invoice (which requires less detailed information) in either of the following two situations:

- Where the supply is provided to a person who is not registered for VAT in Bahrain; or
- Where the consideration of the supply does not exceed BHD 500 (inclusive of VAT).

9.3. Requirements for a VAT invoice and simplified VAT invoice

The list of information to be included on a VAT invoice for it to be considered compliant with the VAT legislation depends on whether the VAT invoice is a full VAT invoice or a simplified VAT invoice. The table below provides the list of requirements for both a VAT invoice and a simplified VAT invoice.

Description	Full VAT invoice	Simplified VAT invoice
The label "VAT invoice"	✓	✗
The name of the supplier	✓	✓
The address of the supplier	✓	✓
VAT Account Number of the supplier	✓	✓
The name of the customer	✓	✗
The address of the customer	✓	✗
A sequential VAT invoice number	✓	✗
The date of issue of the VAT invoice	✓	✓
The date of the supply or the date of payment, if different from the date of issue of the VAT invoice	✓	✗
A description of the supply	✓	✓

Description	Full VAT invoice	Simplified VAT invoice
Quantity of the goods provided	✓	✗
The value of the supply and unit price in Bahraini Dinars (exclusive of VAT)	✓	✗
The value of discount, if any, and the net value in Bahraini Dinars (exclusive of VAT)	✓	✗
The VAT rate and amount of VAT due in Bahraini Dinars (per line item where the VAT rate is different per line item)	✓	✓
The total amount due, inclusive of VAT, in Bahraini Dinars	✓	✓
The exchange rate applied when a foreign currency is used	✓	✗
Where a transaction is exempt from VAT, it should be clearly stated	✓	✗
Where the profit margin scheme is used, a reference that VAT has been charged based on the profit margin mechanism	✓	✓

9.4. Bank statements

A bank statement issued by a bank can be treated as a valid VAT invoice when it contains the following information:

- The name, address and VAN²³ of the bank
- The name and address of the customer
- The date of issue of the bank statement
- The VAT rate applicable for each supply
- The amount of VAT due for each supply

Bank statements treated as VAT invoices have to be issued within the deadline for VAT invoices, i.e. by the 15th day of the month following the month during which a VAT due date was triggered.

²³ VAT Account Number

9.5. Summarized VAT invoice

Where a VATable person makes several supplies to the same customer over a period of time not exceeding one month, he may issue a summarized VAT invoice. The summarized VAT invoice will be treated as a valid VAT invoice provided that all the requirements of a VAT invoice are met.

9.6. Self-issued VAT invoice

In certain cases, the issue of a VAT invoice by a VATable supplier may not be practical. In such cases, the VATable customer may issue a VAT invoice on behalf of his VATable supplier subject to all of the following conditions being met:

- There is an agreement in writing between both parties allowing the issue of VAT invoices by the customer;
- The supplier undertakes not to issue any VAT invoice when a transaction is subject to self-invoicing;
- There is a mechanism whereby the supplier is able to approve every VAT invoice issued by the customer on his behalf;
- The VAT invoice clearly states that it is issued by the customer on behalf of the supplier;
- The customer retains a copy of every VAT invoice issued on behalf of the supplier; and
- The invoice issued by the customer on behalf of the supplier meets all the conditions to be a VAT invoice.

Where self-invoicing is used, the VATable supplier remains responsible for the VAT invoice issued by the VATable customer.

9.7. Invoices for supplies subject to the reverse-charge mechanism

A VATable person liable to pay VAT in Bahrain under the reverse-charge mechanism on a given supply must record the VAT amount due, in Bahraini Dinars, on the invoice issued to him by the supplier. The VAT amount can be written in pen.

9.8. Intra-VAT Group transactions

Transactions between members of the same VAT group are disregarded for VAT purposes. Accordingly, there is no requirement to issue VAT invoices for these transactions.

9.9. Supplementary information

9.9.1. Invoices issued in foreign currency

Where a VAT invoice is issued in a foreign currency, the VATable person must convert the amounts stated on the VAT invoice to Bahraini Dinars. The exchange rate approved by the Central Bank of Bahrain as at the VAT due date must be used.

As part of the transitional measures, if an exchange rate approved by the Central Bank of Bahrain is not available, a reliable source of foreign exchange rates should be used. VATable persons should use the same source consistently until exchange rates approved by the Central Bank of Bahrain are available.

9.9.2. Rounding rules

Where the VAT amount due on a VAT invoice is a fraction of a Fils of Bahraini Dinar, the value may be rounded to the nearest Fils, based on mathematical rounding rules. See the “Rounding of values” section of the VAT Retail and Wholesale guide for further information.

9.10. Adjusting a VAT invoice

9.10.1. Overview

A VAT invoice that has been issued may need to be revised due to changes in the value of the supply. Where the VAT due on the VAT invoice is overstated or understated and needs to be amended, the VATable person must make adjustment by issuing a credit note or debit note depending on the circumstances.

The VATable person needs to maintain adequate records to support these transactions in the event of any future audits by the NBR.

9.10.2. Debit note

Where a change in a VATable supply leads to an increase in output VAT, a debit note must be issued. This may arise where the value of the original supply is amended to a higher value.

A debit note must be issued no later than by the 15th day of the month following the month during which the adjustment was made.

9.10.3. Credit note

Where a change in a VATable supply leads to a reduction of output VAT, a VAT credit note must be issued. This may arise where:

- The supply is either returned, cancelled or rejected;

- The original value of the supply is amended (e.g. post-sale discount is provided to the customer because of high quantity purchased over the year, etc); or
- The supplier adjusted the output VAT under the bad debt relief provisions.

Example

A company, VAT registered in Bahrain, supplies 100 books for BHD 500 to a customer located in Bahrain. The supply is subject to VAT at the standard rate, resulting in VAT of BHD 50.

After delivery, the customer decides to return 20 books to the supplier. The supplier adjusts the value of the supply and reduces it by BHD 100. The amount of output VAT related to this reduction is adjusted, i.e. BHD 10. The supplier will thus issue a credit note in respect of the 20 books returned, i.e. for a value adjustment of BHD 100 and a VAT adjustment of BHD 10.

A credit note must be issued no later than by the 15th of the month following the month during which the adjustment was made.

9.10.4. Requirements for debit and credit notes

VAT debit and credit notes should contain the following:

- The label “Credit Note” or “Debit Note”, clearly displayed on the document;
- The name, address and VAN²⁴ of the supplier;
- The name and address of the customer;
- The date of issue of the debit note or credit note;
- The sequential number of the credit note or debit note;
- The sequential number of the original VAT invoice which is being adjusted; and
- The adjusted value of the supply and the adjusted amount of VAT in Bahraini Dinars.

²⁴ VAT Account Number

10. Input VAT recovery

10.1. Introduction

The purpose of this section is to set out the conditions that must be met in order to be able to recover input VAT incurred on purchases and expenses. This section also covers the various input VAT recovery adjustment requirements, including adjustments under the capital assets scheme.

10.2. General principles applicable for input VAT recovery

As a general principle, VAT charged on expenses is recoverable based on the use of these expenses:

- VAT charged on expenses used for the purposes of an activity that is not an economic activity as defined for VAT purposes cannot be recovered
- VAT charged on expenses incurred for the purposes of an economic activity can be recovered (in whole or in part) to the extent these expenses are used (in whole or in part) for making VATable supplies (i.e. supplies VATable at the standard rate or zero-rate)

The recovery of input VAT is subject to conditions that must be met before the VAT may be recovered in a VAT return.

10.3. Conditions for input VAT recovery

In order to be able to recover the VAT charged on expenses, all the following conditions must be met:

- The person seeking recovery of input VAT is a VATable person;
- The expenses on which VAT is charged were incurred for the purpose of that person's economic activity;
- The recovery of input VAT on the expenses is not specifically disallowed by the VAT Law (covered in section 10.5.2 of this Guide);
- These expenses are used for making VATable supplies (i.e. supplies which are not exempt from VAT);
- The supporting original VAT invoices which comply with the requirements of the Law (see section 9 of this Guide for further detail) or the relevant import documentation are in the possession of the person making the claim; and
- Input VAT is claimed within the time limit set by the VAT Law, i.e. five years (see section 10.4 of this Guide for further details).

10.4. Timing for input VAT recovery

Input VAT on an expense becomes recoverable when VAT becomes chargeable on the supply, i.e. on the VAT due date. However, input VAT can only be recovered (via the filing of a VAT return) when all the conditions for recovery are met. This includes being in possession of an original VAT invoice or import documents.

As a result, the recovery position for input VAT on a given expense is the recovery position existing in the VAT period (and related annual adjustment where required) where the VAT on this expense became chargeable and payable to the NBR (please see section 8.5 of this Guide for further detail).

This is the case even where input VAT can only be formally claimed in the VAT return for a later VAT period (when for instance the VATable person was not in possession of a valid VAT invoice on time to claim it in the VAT return for the VAT period where VAT became chargeable on the supply).

Where input VAT was not recovered in the relevant VAT period, it may still be claimed within five years from the end of the calendar year where that input VAT became recoverable, provided all the conditions to recover that input VAT are met.

Example

A bank incurs VAT on a business purchase during a VAT period where its input VAT recovery ratio was 67% (i.e. due to its partially exempt activities the bank is only entitled to recover 67% of the input VAT on this expense). However, it does not receive a compliant VAT invoice for this purchase until one year later, when its input VAT recovery ratio is 85% (i.e. at the time it receives the invoice the bank can recover 85% of the input VAT on its expenses). The bank can only ask for the recovery of the input VAT on this purchase at the time it receives the compliant VAT invoice, but it should use the 67% recovery rate (which corresponds to the recovery ratio at the time that it made the business purchase).

10.5. Methodology to compute the recovery of input VAT

10.5.1. Identification of expenses used for economic activity vs non-economic activity

Only VAT charged on expenses used for the purpose of an economic activity is considered as input VAT and can be included in the input VAT recovery computation. As a result, if a person incurs expenses used only for the purpose of non-economic activity (e.g. he holds shares as a passive investment and incurs specific costs for the purpose of this passive shareholding activity), these expenses must be excluded from the recovery computation and the VAT charged on them cannot be recovered.

Where expenses are incurred which relate to both economic and non-economic activities, these expenses must be apportioned between their economic use and their non-economic use, using an allocation that reflects their fair use. Only the VAT on the portion of the expenses

allocated to the economic activity will be regarded as input VAT and can be included in the recovery computation.

10.5.2. Input VAT disallowed by law

Once the expenses used for an economic activity have been identified, it is necessary to determine whether the input VAT on these expenses is disallowed under the VAT Law and the Executive Regulations.

Input VAT recovery is always disallowed when it relates to goods which are illegal to trade in Bahrain.

The VAT Law also lists certain expenses for which input VAT can never be recovered. The reason for disallowing VAT on these expenses is generally because these, even if incurred for genuine business purposes, have a significant private use element attached to them. Therefore, allowing recovery of input VAT on these expenses may lead to final consumption free of VAT.

Expenses for which input VAT is disallowed by law are set out in the following table:

Expenses for which input VAT recovery is blocked	Examples
Input VAT paid on entertainment expenses incurred for staff and non-staff members	Accommodation, hospitality, food and drinks when not provided within the course of a meeting or as normal refreshments (for example, tea, coffee, etc)
Input VAT paid for accessing events or functions, and for trips for recreational purposes	Concerts, shows, social dinners or outings, team building events and activities when not provided as part of a business meeting
Input VAT paid on goods and services to be used by employees for free for personal use, except when these are required by labor law or other laws in Bahrain.	<p>Providing goods or services for free to employees for them to also use in their private capacity (e.g. mobile phones which can be used for business and private calls, gym subscriptions paid by the employer as part of salary package, etc)</p> <p>Any goods or services for free to employees for their dependents, unless this is required by Law in Bahrain</p>

Expenses for which input VAT recovery is blocked

Examples

Input VAT paid on vehicles provided to employees and on related services (maintenance, repair, insurance) to the extent of non-business use of the vehicles and related expenses.

The conditions on how to compute the business versus non-business use will be contained in a decision to be issued by the NBR²⁵

There is no input VAT restriction on vehicles and related expenses when the vehicles are for civil defense purposes (i.e. ambulance, fire, police vehicles) or are the VATable person's business tools (e.g. fleet vehicles owned by car rental businesses, taxis and buses licensed with the Ministry of Transportation and Telecommunications, buses, trucks, cranes or other specific vehicles used for economic activities).

- Purchase or leasing of cars put at the disposal of employees or executives for both business and private use
- Repair, maintenance and insurance expenses for these cars

The VATable person must identify the non-business use portion on all these expenses and is not permitted to recover the VAT related to this portion.

If input VAT on these expenses was, in fact, recovered, the VAT registered person would be required to recognize a deemed supply for each of these expenses, resulting in an obligation to pay to the NBR 10% VAT on the value of these supplies (see section 4.4 on deemed supplies and section 8.2 on the value of deemed supplies).

10.5.3. Direct attribution of expenses to VATable and exempt supplies

Once expenses on which input VAT cannot be reclaimed under the provisions of the VAT Law have been excluded, the expenses which are directly and exclusively used for (or directly attributable to) making either VATable supplies or exempt supplies should be identified.

- Input VAT on expenses used directly and exclusively for the purpose of making VATable supplies can be recovered VAT in full.
- Input VAT on expenses used directly and exclusively for the purpose of making exempt supplies cannot be recovered

²⁵ The NBR's approach to input VAT claimable on mobile phones and motor vehicles which may be subject to personal use can be found at: https://www.nbr.gov.bh/t_faq/8

For the purposes of direct attribution “VATable supplies” include the following:

- VATable supplies in Bahrain subject to VAT at the standard rate or zero-rate;
- Intra-GCC supplies; and
- Out-of-territorial scope supplies which would be VATable supplies if made in Bahrain (e.g. a conference held in Spain for which an entry fee was charged).

For the purpose of the direct attribution, exempt supplies include the following:

- Exempt supplies in Bahrain; and
- Out-of-territorial scope supplies which would be exempt supplies if made in Bahrain (e.g. rent received in respect of a residential property in London).

Based on the above, where the economic activity is fully VATable, all of the input VAT charged on expenses can be recovered (other than on those specifically disallowed, see section 10.5.2).

If the economic activity is fully exempt, input VAT charged on expenses cannot be recovered.

10.6. Apportionment of input VAT on residual expenses

10.6.1. Overview

Some VATable persons have an economic activity which is partly VATable and partly exempt (e.g. banks). These persons are referred to as carrying on partially exempt businesses. It is expected that some expenses incurred by such persons cannot be directly and exclusively attributed to either their VATable supplies or their exempt supplies. Such expenses are usually called residual expenses. To determine the amount of input VAT which can be recovered on these residual expenses, an apportionment will be necessary.

The standard method of apportionment is set out in the Executive Regulations and is the method applicable by default to any partially exempt persons. The VAT Law and Executive Regulations also allow the use of special methods of apportionment provided prior approval for their use is obtained from the NBR.

10.6.2. Standard apportionment method

In order to determine the amount of input VAT on residual expenses that can be recovered during a VAT period, an apportionment formula should be applied which provides the percentage of input VAT on residual expenses that can be claimed. The formula is an allocation between the VATable supplies (sales) and the exempt supplies (sales) of the VATable person for that VAT period and is as follows:

$P = A \div (A+B)$ where **P** is the percentage of input VAT on residual expenses which can be claimed. **P** should be rounded to the nearest tenth of a whole number (i.e. one decimal place).

- A.** The total value of supplies, made during the VAT period, that allow input VAT recovery including:
- VATable supplies in Bahrain subject to VAT at the standard rate or zero-rate;
 - Intra-GCC supplies; and
 - Out-of-territorial scope supplies which would be VATable supplies if made in Bahrain.
- B.** The total value of supplies, made during the VAT period that do not allow input VAT recovery. This includes:
- Exempt supplies in Bahrain; and
 - Out-of-territorial scope supplies which would be exempt supplies if made in Bahrain.

The following should not be included when computing the input VAT recovery percentage:

- a. The value of supplies of capital assets used for carrying out the economic activity. Including these supplies may distort the ratio as these are exceptional supplies and are not part of the core daily activity of the VATable person
- b. The value of supplies which are incidental and do not constitute the core activity of the VATable person. Again, including these supplies may distort the ratio as these are exceptional supplies and are not part of the core daily activity of the VATable person

Example

A VATable person whose activity is selling furniture grants a bridging loan to a group company that needs cash at short notice. It earns interest income on this loan. The interest income is exempt from VAT, but should not be included in the value of supplies when computing the input VAT recovery percentage as it is an incidental supply.

- c. The value of supplies made by an establishment of the VATable person located outside Bahrain
- d. Transactions that are not supplies for VAT purposes (i.e. outside the scope of VAT). These transactions do not fall within the scope of VAT and must not be taken into account to compute the ratio

Transactions outside the scope of VAT include dividends, accounting adjustments, receipt of indemnity payments and donations (where they are not received in exchange for a specific service or benefit like sponsoring).

10.6.3. Special apportionment methods

Alternative apportionment methods may be accepted by the NBR if the VATable person is able to support that the standard apportionment method is impractical, or if the percentage

resulting from this standard method does not represent, in a fair and reasonable, way the apportionment between his VATable and exempt activities.

Special apportionment methods can be based on factors relevant to the business such as headcount (e.g. number of staff working on VATable activities compared to the number of staff working on exempt activities) and transaction count (number of VATable and exempt supplies, rather than their values).

A VATable person wishing to use a special apportionment method should make an application to the NBR. Until the NBR provides its approval, the VATable person must continue to apply the standard apportionment method.

If the NBR approves a special apportionment method, it will also confirm the effective date for using it and, if relevant, the time limit and conditions associated with its use. If the alternative special method is rejected by the NBR, the VATable person must continue to apply the standard apportionment method.

The NBR may also direct a VATable person to use a special apportionment method where the standard method does not provide a fair and reasonable reflection of the VATable person's economic activity.

10.6.4. Annual adjustment of the apportionment ratio

The apportionment ratio has to be computed by VAT period, using the actual values of supplies during that VAT period.

At the end of its VAT year, the VATable person must conduct an annual adjustment of the input VAT recovered throughout the VAT year. This is needed to ensure that input VAT has been recovered in a consistent way during the VAT year and to prevent abuses of the input VAT recovery rules.

At the end of its VAT year, the VATable person is required to apply the apportionment formula as explained on sections 10.6.2 and 10.6.3 above using the total value of its supplies to total residual expenses incurred during the VAT year. If a special apportionment method is used, that method should be applied to the VATable person's total residual expenses for the year.

If the amount of recoverable input VAT using the yearly formula differs from the sum of input VAT recovered in each VAT period of the VAT year, the VATable person must make an adjustment of the input VAT corresponding to that difference. This adjustment may result either in an additional amount of input VAT to be recovered, or in an amount of input VAT to be repaid to the NBR.

The annual adjustment should be reported either in the VAT return for the last VAT period of the VAT year or in the VAT return for the first VAT period of the subsequent VAT year.

For the purposes of applying the annual formula, the VAT year of a VATable person corresponds to the calendar year (i.e. 1 January to 31 December).

10.6.5. Recovery of input VAT on pre-VAT registration expenses

A VATable person may recover, in accordance with the input VAT recovery rules explained above, VAT charged on expenses incurred before his effective date of VAT registration provided the following conditions are met:

- For goods: The goods were acquired or imported within a period not exceeding five years prior to the effective date of registration and they are still in the VATable person's possession on the effective date of registration.
- For services: The services were acquired within a period not exceeding six months prior to the effective date of registration.

VAT on pre-registration expenses should be claimed in the VAT return for the first VAT period following the effective date of registration. The VATable person should provide the NBR with the following documents:

- A list of the purchases for which input VAT recovery is sought;
- An inventory of the stock of goods and raw materials still at his disposal on the effective date of VAT registration (nature, quantity and value, date of purchase and amount of the input VAT paid);
- Copies of the VAT invoices issued by suppliers for the goods and services acquired; and
- Customs declarations for imports.

10.7. Recovery of import VAT paid on goods imported in another Implementing State

A VATable person registered in Bahrain can recover the import VAT paid in another Implementing State for goods imported in that other Implementing State (as first point of entry of the goods) when the final destination of these goods is in Bahrain (as final destination point of entry of the goods), subject to the general input VAT recovery rules. This can be done by claiming this VAT on his Bahrain VAT return.

This rule is not in application yet since Bahrain currently does not recognize any other GCC member state as an Implementing State.

10.8. Adjustment to input VAT recovered

10.8.1. Introduction

There are instances where input VAT recovered on expenses has to be adjusted. These are set out in the VAT Law and the Executive Regulations and are summarized below.

10.8.2. Change in the value of the supply received

Where the value of supplies of goods or services received is amended and this triggers a change in the amount of input VAT recoverable, the VATable person must adjust the amount of input VAT initially recovered. Such an adjustment is mandatory in the following circumstances:

- Cancellation or refusal of the supply received; or
- Reduction in the value of the supply received, after the date of the supply.

In these cases, it is expected that the supplier will issue a VAT credit note and the adjustment can be done on this basis.

The adjustment of input VAT should be reflected in the VAT return for the VAT period during which the change in value occurred and the supporting documentation is received.

Example

A supplier issues a VAT invoice for a supply amounting to BHD 150 and output VAT of BHD 15. The registered customer fully recovers the input VAT of BHD 15.

The value of the supply is subsequently amended with the supplier granting a reduction of BHD 50. The supplier issues a VAT credit note for BHD 50 with VAT of BHD 5.

The customer subject to VAT should adjust the input VAT recovered by BHD 5 and pay this amount back to the NBR on his VAT return for the VAT period during which the reduction in value occurs.

10.8.3. Failure to pay the consideration for the supply received

The entitlement to recover input VAT assumes that the recipient of the supply intends to pay the consideration for the supply. Where the consideration is not paid (in part or in full) within twelve months of the date of the supply and the supplier follows the procedures to obtain bad debts relief, the recipient of the supply is required to adjust the input VAT initially recovered by an amount corresponding to the unpaid amount of VAT (please see section 15 on the relief for bad debts for further detail).

The adjustment of the input VAT initially recovered should be reflected in the VAT return for the VAT period during which the bad debt relief is granted to the supplier. It is expected that the supplier will issue a VAT credit note.

If, at a later stage, the recipient VATable person pays the consideration due to the supplier (in full or in part), he will be entitled to re-adjust and seek recovery of the input VAT paid, in accordance with the input VAT recovery rules, in the VAT return for the VAT period during which the payment was finally made.

10.8.4. Change in use - capital assets scheme

Input VAT on purchase of a capital asset

When purchasing a capital asset, a VATable person can recover the input VAT paid on the asset based on the use or intended use of the capital asset at the time of purchase:

- Where the capital asset is purchased for making VATable supplies only, the input VAT on this asset is fully recoverable;
- Where the capital asset is purchased for making exempt supplies only, the input VAT on the asset is not recoverable;
- Where the capital asset is purchased for making both VATable and exempt supplies, the input VAT on the asset is partially recoverable.

The capital assets scheme

As capital assets are used for a long period of time, their use may change over time. An asset originally bought solely to make VATable supplies could, after some time, be used to make exempt supplies. The VATable person will have claimed 100% of the input VAT on buying the asset.

The capital assets scheme is designed to ensure that the correct amount of input VAT is recoverable by a VATable person based on the use of that asset over its lifetime, i.e. it is determined by whether it is used to make VATable supplies, exempt supplies or a mixture of both.

Where the use of a capital asset, over a certain time, differs from its initial or intended use, the VATable person is required to adjust the input VAT initially recovered.

Capital assets

A capital asset is a tangible or intangible asset that is assigned by the VATable person for long-term use as a business instrument (i.e. it is not stock for sale).

Time period for application of the capital assets scheme

The capital assets scheme applies during the lifetime of the relevant capital asset which is as follows:

- For intangible assets and movable tangible assets, their lifetime is no less than five years;
- For immovable tangible assets, their lifetime is at least ten years.

The adjustment period relating to capital assets is:

- Five years for movable tangible capital assets and intangible capital assets;

- Ten years for immovable tangible capital assets.

The first year of the adjustment period corresponds to the VAT year during which the capital asset was first used. Each subsequent year of the adjustment period starts following the end of the preceding VAT year. VAT year has the same meaning as for the annual adjustment of the apportionment ratio as discussed at section 10.6.4.

Any change in the use of a capital asset once its adjustment period has expired does not trigger the requirement to adjust the amount of input VAT recovered.

Computation of the adjustment

Article 60 of the Executive Regulations provides the step-by-step adjustment methodology as well as the formulae to be used in making an adjustment.

The adjustment under the capital assets scheme, where required, has to be reported either in the VAT return for the last VAT period of the adjustment VAT year or in the VAT return for the first VAT period of the subsequent VAT year.

Maintenance of records relating to capital assets

VATable persons are required to keep and maintain a record of their capital assets and of the related input VAT recovery position throughout the adjustment period.

Input VAT on capital assets acquired before registration

Input VAT can be recovered on capital assets acquired before a VATable person's effective date of VAT registration. The following conditions must be met:

- The capital assets must have a positive net book value on the effective date of registration; and
- The capital assets must have been acquired or imported by the VATable person for the purposes of his economic activity and there must be a right to deduct input VAT, in accordance with the input VAT recovery rules.

The maximum input VAT that can be recovered is equal to an amount of VAT calculated on the basis of the net book value of the capital assets on the effective date of registration of the VATable person. The net book value is determined in accordance with the accounting practice of the VATable person.

For the purpose of computing the adjustment period applicable to these capital assets, the first year of the adjustment period starts on the date of first use of the capital asset by the VATable person.

A VATable person who wishes to recover VAT on capital assets acquired before registration should provide the NBR with the following documents:

- An inventory of all the capital assets in his possession on the effective date of VAT registration (detailed description, date of purchase and amount of VAT paid);
- Copies of VAT invoices issued by the suppliers;
- Customs declarations for imports.

10.8.5. Cases where adjustment of the input VAT is not required

An adjustment of the input VAT initially recovered is not required in the following two cases:

- Where the goods purchased or imported have been lost, damaged or stolen, as long as evidence can be provided of the loss, damage or theft; and
- Where the goods purchased or imported have been used to provide low value gifts or samples (see section 4.4 on deemed supplies for further information on low value gifts and samples).

10.9. How to claim recoverable input VAT

Input VAT is recovered through VAT returns where the amount of input VAT recoverable reduces the amount of output VAT payable by a VATable person. There may be cases where a VATable person has more input VAT to recover from the NBR than output VAT to pay to the NBR, i.e. he has an excess of recoverable input VAT.

Some VATable persons, due to their business profile, are expected to have an excess of recoverable input VAT on a recurring or ongoing basis. This would be the case for VATable persons carrying out mainly zero-rated activities.

Some VATable persons will only have an excess of recoverable input VAT from time to time, e.g. when they incur significant capital expenditure.

A VATable person with an excess of recoverable input VAT has two options:

- He can ask the NBR for a refund of this excess; or
- He can carry forward this excess to its subsequent VAT periods.

The NBR may offset the excess of recoverable input VAT against any VAT or administrative fines due by the VATable person under the provisions of the VAT Law or any other VAT Law until the excess is exhausted.

See section 12 for more details on VAT returns and the process for recovering excess recoverable input VAT.

10.10. How to claim the VAT charged on expenses related to mobile phones and vehicles used for both business and non-business purposes

Only VAT charged on expenses used for the purpose of economic activity is considered as input VAT and may be claimable, subject to input VAT recovery conditions being met.

Where a motor vehicle or mobile phone has been provided to an employee which may be subject to personal use (e.g. commuting to or from work, making or receiving personal phone calls), the costs incurred in respect of the motor vehicle or mobile phone must be allocated between business and personal use. The VAT on the portion of costs allocated to personal use may not be claimed. The VAT on the portion of costs allocated to business use may be claimed as input VAT, subject to the normal input VAT recovery rules.

This apportionment between business and personal use should be carried out on a fair and reasonable basis, by reference to actual usage and under written policies and procedures. Alternatively, a simplified method described below may be used.

Vehicles

Apportionment of costs to determine business and personal use for vehicles should be by reference to distance travelled for business and personal purposes and should be evidenced by written logs documenting each journey.

When computing the business and personal use on the purchase costs of a vehicle, a business will need to estimate the expected business and personal use. An adjustment will be required at the end of each VAT year to reflect the actual business and personal use for vehicle costs. Please see the “Change in use - Capital assets scheme” Section 10.8.4. for further information.

Mobile phones

Apportionment of costs to determine business and personal use of phones should be by reference to the cost of personal use; written records should be maintained to set out how this is calculated.

No recovery of VAT is available for any phone related expenses where there is no bill (e.g. prepaid phone credit). VAT charged on such expenses must be disallowed in its entirety.

No VAT can be claimed in respect of mobile phone costs where the actual business use of the phone does not exceed 50%.

When purchasing a mobile phone, a business will need to estimate the expected business and personal use. An adjustment will be required at the end of each VAT year to reflect the actual business and personal use for mobile phone costs. Please see the “Change in use - Capital assets scheme” Section 10.8.4. for further information.

Simplified method to apportion between business and personal use

The NBR will accept the use of a fixed apportionment rate to determine the business use and personal use of both vehicles and mobile phones provided to employees which are used for both business and non-business purposes:

- Motor vehicles - business use is 40% of all costs.
- Mobile phones - business use is 60% of all costs.

A business may choose to use both simplified methods or opt to use only one (i.e. for motor vehicles, but not for mobile phones or vice versa).

If a business intends to use one of the simplified methods, it will be obliged to use it for all assets in the relevant category. This means:

- If the business chooses to use the 40% apportionment for business use of motor vehicles, all motor vehicles with personal use must be subject to this 40% apportionment.
- If the business chooses to use the 60% apportionment for business use of mobile phones, all mobile phones owned by the business with personal use must be subject to this 60% apportionment.

Mobile phones that do not have business use exceeding 50% are not eligible for the simplification measure as no VAT can be claimed with respect to expenses incurred on such phones.

A business that opts to use one or both of the simplified methods does not need to notify the NBR. A business that opts to use the simplified method does not need to make any adjustment at the end of each VAT year to reflect the actual business and personal use for vehicles and mobile phones costs.

When should the simplified method be applied to the apportionment between business and personal use?

A business can apply the simplified method for both vehicles and mobile phones costs which are used for business and non-business purposes from the date of VAT registration. Where a business wishes to apply the simplified method for the VAT period ending 31st March 2019, that business will need to determine whether a correction, reflecting a change in the amount of input VAT claimed, should be made in its VAT return for the period ending 30th June 2019 or whether an amended VAT return for the period ending 31st March 2019 should be submitted (this will depend on whether the application of the simplified method results in an underpayment of net VAT due of less than BHD 5,000).

Please refer to “Amending a VAT return” Section 12.3.4 for further information.

If the simplified method is chosen to be applied, how long should it be used?

A business must use the fixed apportionment rate for a period of two years before moving to an actual basis for determining the business use and personal use of motor vehicles and mobile phones. If there is a significant change to the business during those two years, the business may apply to the NBR to change to an actual basis prior to the end of the two years. The NBR will have full discretion as to whether to approve or deny the request.

Is approval required from the NBR prior to applying the simplified method?

There is no requirement to obtain pre-approval from the NBR to use the simplified method, nor is there a requirement to inform the NBR that the business is using it.

The NBR reserves the right to disqualify any person from using the simplification measure where it forms the view that it is being abused.

11. Special refund schemes

VAT legislation allows certain persons to obtain a refund of Bahrain VAT they incur on their expenses and imports of goods irrespective of whether they are VATable persons or meet the general conditions for input VAT recovery. These are called special refund schemes. The persons listed below can benefit from a special refund scheme:

- Tourists;
- Foreign governments, international organizations, institutions, consular and military bodies and missions;
- Business visitors from non-Implementing States; and
- VATable persons from other Implementing States.

Each special refund scheme follows specific conditions and a specific refund application process. Further information on these schemes will be published in due course.

12. VAT period, VAT return and payment

12.1. Understanding the net VAT position

12.1.1. Introduction

A VATable person should assess his net VAT position for a given VAT period, based on the output VAT and recoverable input VAT to be reported in the VAT return form for that VAT period.

Below are some of the terms commonly used in the VAT process and their impact on a VATable person's net VAT position.

12.1.2. Output VAT

Output VAT refers to the VAT amount charged by a VATable person on his VATable supplies (sales), including deemed supplies (covered in section 4.4 of this Guide) and on the supplies received that are subject to the reverse charge mechanism (covered in section 7.3 of this Guide).

Output VAT should be accounted for at the relevant VAT due date (covered in section 8.5 of this Guide). The VAT due date will determine the VAT period in which the supply and related output VAT should be reported to the NBR for payment.

12.1.3. Recoverable input VAT

Input VAT is the VAT incurred by a VATable person on any goods or services purchased or imported by him for the purpose of his business. If the VATable person is registered, he may be able to recover this input VAT from the NBR, subject to the conditions for input VAT recovery (please see section 10 of this Guide for further details).

Input VAT that can be recovered can be claimed from the NBR in the VAT period when all the conditions for its recovery are met.

Example

A VATable person purchased a new IT server for storing confidential data related to his clients. This person carries out only VATable supplies and is therefore entitled to recover input VAT in full on its business expenses. The VATable person will be able to recover the input VAT charged on the acquisition of the server in the VAT period where it is in possession of the valid original VAT invoice for this purchase.

12.1.4. Calculating the net VAT position

The VATable person is required to assess his net VAT position for a given VAT period, based on the output VAT and the recoverable input VAT to be reported in the VAT return for that VAT period.

A VATable person's net VAT position is the difference between the output VAT and the input VAT recoverable in a given VAT period, plus or minus any corrections (if any). This difference leads either to a net VAT payable position or to a net VAT refundable position, as illustrated in the table below.

Output VAT – Input VAT	Net VAT position
Where output VAT exceeds input VAT: ²⁶	The VATable person is in a net VAT payable position and is required to pay this net amount to the NBR
Where input VAT exceeds output VAT: ²⁷	<p>The VATable person is in a net VAT refundable position and is entitled to a refund of this excess amount of recoverable input VAT</p> <p>The VATable person may either request a refund from the NBR or carry the excess forward to subsequent VAT periods and offset it in against any other VAT or penalty</p>

12.2. VAT periods

The year 2019 was a transitional year for VAT in Bahrain. In this respect, specific rules were put in place. For further details on the 2019 rules please consult section 19 of this Guide, as the VAT periods for the year 2019 follow different rules than the ones presented below. The details provided below apply from 1 January 2020.

A VAT period is the period for which a VATable person is required to:

- Report and pay output VAT due to the NBR; and
- Report and claim recoverable input VAT from the NBR.

At the end of each VAT period, a VAT return summarizing the output VAT due and input VAT recoverable for that VAT period must be prepared and submitted to the NBR.

VATable persons with annual supplies exceeding BHD 3 million will have monthly VAT periods, corresponding to Gregorian calendar months. VATable persons with annual supplies not exceeding BHD 3 million will have VAT periods corresponding to Gregorian calendar quarters (i.e. ending 31 March, 30 June, 30 September and 31 December), unless the NBR notifies a

²⁶ Positive amount.

²⁷ Negative amount.

given VATable person that it should use an alternative quarterly period (e.g. from 1 February to 30 April).

A VATable person with annual supplies not exceeding BHD 3 million may ask the NBR to have monthly VAT periods. If the NBR accepts the request, it will notify the VATable person of the effective date of the change in VAT period.

The NBR may adjust the VAT period of a VATable person (e.g. from quarterly to monthly). In this case, such a change will be notified at least three months before the effective date of the change.

A VAT return for each VAT period is due by the last day of the month following the end of the last day of the VAT period. The associated VAT due should also be paid by that date.

VAT periods

VATable Person (Annual Supplies in BHD)	Monthly filing		VAT period											
	> 3,000,000	Monthly filing	▶	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
			Filing period											
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
			Filing deadline											
			Last day of the month											
			Jan – Mar			Apr – Jun			Jul – Sep			Oct – Dec		
≤ 3,000,000	Quarterly filing	▶	Jan – Mar			Apr – Jun			Jul – Sep			Oct – Dec		
			Filing period											
			Apr			Jul			Oct			Jan		
			Filing deadline											
			Last day of the month											

12.3. VAT return

12.3.1. Overview

The VAT return is the official document summarizing for a given VAT period, the total output VAT due and the total input VAT recoverable. This form, prepared by the NBR, has to be populated by all persons registered for VAT in Bahrain. The form is the same, whether the VATable person is subject to quarterly VAT periods or monthly ones.

12.3.2. Submission and payment due date

A VATable person should submit a VAT return using the NBR's online portal and make the payment of the VAT due by the last day of the month following the end of the VAT period. VATable persons should ensure that payments are made in proper time to be received by the NBR on that day.

Where there are no transactions to be reported in a given VAT period, a VATable person should still submit a VAT return showing no output or input VAT.

Late submission of a VAT return or late payment of VAT will result in application of penalties by the NBR. Please consult section 14 of this Guide for additional information on the applicable penalties.

When a VAT payer fails to submit his VAT return form by the due date, the NBR has the right to make an estimate of the net VAT due for the relevant VAT period.

12.3.3. Electronic filing

All VAT returns should be submitted through the NBR's online portal by the VATable person, or by a person authorized to do so on behalf of the VATable person (i.e. his agent or VAT representative). Where a VAT agent submits VAT returns on behalf of a VATable person (resident), the VAT liability will remain that of the VATable person.

On submission of a VAT return, the NBR will immediately send a receipt. This receipt is the official confirmation of the submission of the VAT return through NBR's portal.

12.3.4. Amending a VAT return

Amending a VAT return for a VAT payer error (e.g. the VAT payer did not include ten sales invoices in the VAT period) is different than amending a VAT return to reflect a change of liability resulting from a business transaction (e.g. the return of goods). VAT payer errors leading to an understatement of VAT liability is subject to penalty. An adjustment of liability triggered by a change in a business transaction is not.

Where a VATable person identifies an error in a VAT return that has been submitted, he is required to submit an amended VAT return (called a self-amendment) to the NBR within 30 business days of becoming aware of the mistake. The amended VAT return should be submitted electronically on the NBR portal and it will replace the previously submitted VAT return.

If the VAT payer error led to an underpayment of net VAT due of less than BHD 5,000 and is discovered early enough, the VATable person may correct that error directly in the VAT period following the original VAT return.

No penalty will apply if the amended VAT return is filed within 30 business days of becoming aware of the error provided the NBR has not already initiated an audit.

The adjustment of an amount of VAT due or VAT recoverable resulting from a change in the value of a supply and supported by a VAT credit note or a VAT debit note is not to be considered as an error. It does not trigger the obligation to submit an amended VAT return. Such adjustment is to be reported in the VAT return for the VAT period during which it took place.

12.3.5. Payment process for net VAT payable

The amounts of VAT due to the NBR will be notified to the VAT payer electronically.

When making a payment, the VATable person will provide his VAT Account Number and the VAT period for which the VAT is paid.

13. Record keeping

13.1. Requirements

13.1.1. Documents that must be kept

A VATable person or his VAT representative (where applicable) is required to retain the following documents:

- Accounting books related to the VATable person's transactions (the transactions must be maintained in chronological order);
- Records of all supplies and imports of goods and services, including:
 - All VAT invoices and alternative documents received;
 - All VAT credit / debit notes and alternative documents received;
 - All VAT invoices and alternative documents issued;
 - All VAT credit / debit notes and alternative documents issued;
- Balance sheet and profit and loss accounts;
- Wage and salary records;
- Fixed assets (capital assets) records;
- Inventory records and statements including the quantities and values for each VAT period;
- All customs documents related to import and export transactions;
- Any other records as determined by the NBR.

It is advisable to also keep records of the following:

- Records of goods and services that have been disposed of or used for non-business purposes;
- Records of goods and services purchased in respect of which input VAT was not recoverable;
- Records of any deemed supplies; and
- Records of corrections of errors.

The records and documents relating to VAT should be kept either in Arabic or in English.

During a verification, review, audit or appeal, the NBR may request the VATable person to translate into Arabic some or all of the records maintained in a language other than Arabic or English.

A VATable person may appoint a third party to retain his records and documents. However, the responsibility remains with the VATable person who may face penalties where these records are not compliant with the Law.

13.1.2. Where and in what format the records must be kept

VATable persons must keep their documents and records in good condition and free from any damage. The documents may be kept electronically, subject to the following conditions:

- The records and documents can be easily accessed from the computer system when requested by the NBR;
- The hard copies of the documentation that support these books and records can be obtained; and
- The computer system has sufficient security to ensure the documents cannot be tampered with or manipulated.

13.2. Timeframes

A VATable person must maintain the relevant records for a period of five years after the end of the VAT period to which they relate or from the end of the VAT period where the adjustment period ends (for capital assets).

Starting in 2024, the NBR has extended the period to retain records and accounting books for an additional five years in accordance with Paragraph (D) of Article (103) of the Executive Regulations.

Therefore, a VATable person must maintain the relevant records and accounting books as per Paragraphs (A) and (B) of the same Article, for an additional five years on top of five years after the end of the VAT period to which they relate or from the end of the VAT period where the adjustment period ends (for capital assets) making the Retention Period of Records and Accounting Books 10 years.

Records which relate to real estate must be kept for a period of 15 years after the end of the VAT period to which they relate.

The NBR may notify the VATable person to retain these records for a longer period, without this additional period exceeding five years.

Where a VATable person ceases to carry out his VATable activities because of a transfer of his business or a merger, he will still be required to retain the records related in accordance with the VAT Law.

Where a VATable person is declared bankrupt or in the event of insolvency, the VATable person's legal representative must retain records of such a person for a period of not less than twelve months from the date on which those proceedings have been finalized.

13.3. VAT accounts

As a result of submitting VAT returns and either paying VAT to the NBR or obtaining VAT refunds from the NBR, a VATable person will need to set up VAT accounts in its books in order to record the VAT payable to the NBR and the VAT receivable from NBR across different VAT periods.

14. Non-compliance with VAT obligations

This section covers the various penalties to be imposed by the NBR on a VATable person for non-compliance with the VAT Law and the Executive Regulations. Below is a list of the VAT penalties:

Offence	Associated administrative fine
Failure to apply to register with the NBR (within 60 days from the date of expiry of the registration period)	Fine not exceeding BHD 10,000
Late submission of a VAT return (not exceeding 60 days)	Fine between 5% and 25% of the value of the VAT declared or paid
Late payment of VAT due (not exceeding 60 days)	
Submission of false data on imports or supplies where their value is higher than the value declared in the VAT return.	Fine between 2.5% and 5% of the unpaid VAT, per month (or part of month) where the VAT is not paid
Preventing or obstructing the NBR's staff or those mandated to implement the provisions of the Law and Regulations from carrying out their duties	
Failure to notify the NBR of any changes to the information in the submitted VAT registration application or a VAT return	
Failure to display prices of the goods or services inclusive of VAT	A fine not exceeding BHD 5,000
Failure to provide information requested by the NBR	
Failure to comply with the conditions and procedures of issuing a VAT invoice	
Breaching of any other provision of the Law or the Regulations	

An administrative fine may be imposed by the NBR and is collected together with the amount of VAT due (if any).

A VATable person is entitled to contest the application of an administrative fine by filing an objection to the VAT Appeals Review Committee, in accordance with the procedure explained in section 17.4 of this Guide. The VAT Appeals Review Committee must submit a recommendation to the Minister or his authorized delegate within 30 days of submission of the

objection, and the Minister or his authorized delegate has then 15 days to issue a decision on the objection.

Criminal sanctions applicable under the VAT Law are described below.

VAT evasion (Criminal case)	Penalties and punishment
Failure to apply to register with the NBR (exceeding 60 days from the date of expiry of the registration period)	Natural person: <ul style="list-style-type: none"> • Imprisonment for a period of not less than three years and not exceeding five years; and • A fine of not less than the amount of the VAT due but not exceeding three times this amount.
Late submission of a VAT return (exceeding 60 days)	
Late payment of VAT due (exceeding 60 days)	The fine is doubled if the offence is repeated within three years from the date of the final conviction.
Recovery of input VAT without any right and in violation of the rules of input VAT recovery prescribed under the provisions of the Law	The offender or multiple offenders are jointly liable for the payment of the VAT due.
Unlawfully and knowingly claiming a refund of VAT, in whole or in part	Legal person: Without prejudice to the criminal responsibility of a natural person, a legal person is subject to double the maximum fine applicable to a natural person if a VAT evasion crime is committed in his name, on his behalf or for his benefit.
Provision of forged or artificial documents, records or invoices with the intention of avoiding payment of VAT payment, in full or in part	Reconciliation:
Non-issue of VAT invoices by a VATable person, in violation of the provisions of this Law	Upon written request of the accused, the NBR may accept reconciliation before the lawsuit is filed, during the hearing and before the judgment is given, provided the accused pays an amount equivalent to the minimum fine for the crime as well as the value of the VAT.
Issuing VAT invoices which include an amount of VAT in respect of non-VATable supplies	The reconciliation results in the termination of the criminal case.
Failure to maintain the appropriate records, VAT invoices and accounting books in a systematic way in violation of the provisions of Article 69 of the Law	In all cases, the crime of VAT evasion is considered an offense against honor and honesty.

15. Bad debts relief

Sometimes, a VATable supplier will not receive the consideration due to his VATable supplies (e.g. because of a delinquent customer). The VATable supplier will have already paid the output VAT on his supplies to the NBR without having collected it from his customer.

The VAT Law and its Executive Regulations allow a VATable supplier to adjust and recover output VAT already paid to the NBR where he was not able to collect these amounts from his customers.

Before applying this relief, the supplier has to meet the following conditions:

- The payment of the consideration due by the customer must be pending (in part or in full) for at least 12 months from the date of supply. This 12-month period does not apply where the customer has not paid due to bankruptcy.
- The VATable supplier must be able to prove that he has taken all necessary measures to collect the debt (e.g. emails, calls, registered letters, notification for payment, etc) and must have initiated legal proceedings against the customer at the very least.
- The VATable supplier has written off (partially or fully) the debt in his books.

Legal proceedings constitute lodging a claim in court for the enforcement of the debt. Issuing a payment demand notification or a letter from an in-house legal team to the debtor without lodging a claim in court will not be sufficient for applying the bad debt relief for Bahrain VAT purposes.

Where the VATable supplier lodged a claim in court, he must follow through with the court case. If the VATable supplier withdraws the court case, the adjustment on bad debt must be reversed by canceling the previously issued VAT credit note.

Where all the conditions above are met, the supplier can adjust the related amount of VAT in the VAT return for the VAT period during which he meets the conditions. The supplier will also be required to issue a VAT credit note to the customer showing the adjustment.

Where the consideration is received (in full or in part) from the customer after a bad debts adjustment was made, the supplier should make another adjustment and pay the output VAT due on the amount received in the VAT return for the VAT period during which the late payment was received. The supplier should also issue a VAT debit note reflecting this.

16. Profit margin scheme

16.1. Introduction

The VAT Law provides for a specific regime whereby VAT is chargeable not on the total value of a supply, but only on the profit margin earned by the supplier. This is the profit margin scheme. The scheme only applies to specific supplies of goods and under specific conditions.

This regime is intended to avoid VAT being applied on that part of the sale value of goods that have already been subject to VAT where it cannot be recovered.

This regime is not mandatory. Suppliers can elect to use their margin as the value of their supplies for the purpose of computing the output VAT due, subject to the NBR's approval.

The “Goods and the profit margin scheme” section of the VAT Retail and Wholesale Guide sets out more details on the operation of the profit margin scheme.

16.2. Conditions for the application of the profit margin scheme

The VATable person must obtain the NBR's approval before applying profit margin scheme.²⁸ The conditions for the application of the profit margin scheme are discussed below.

- The goods to be sold must:
 - Be used goods suitable for further use in their current state or after repair;
 - Be works of art, artefact, or other items of scientific, historical or archaeological interest;
 - Not be precious metals, precious stones or pearls.

Precious metals are silver (including silver plated with gold or platinum), gold (including gold plated with platinum), platinum and any item where the item is primarily comprised of one or more precious metals. For this purpose, NBR will generally consider that an item is primarily comprised of one or more precious metals where more than 50% of the value of the item is derived from such metals. Precious stones are diamonds, rubies, sapphires and emeralds. Precious stones and pearls are not qualifying goods whether or not they are mounted, set or strung.

If any repairs are required before reselling the goods, these repairs must not be significant and must not alter the nature or the use of the goods.

- The supplier must:

²⁸ The NBR may request additional information from the applicant in relation to the application. If the information requested is not provided within 30 days of request, the application will automatically be rejected.

- Have purchased the goods in Bahrain
 - o From a non-VATable person (e.g. private individual); or
 - o From a VATable person who himself sold the goods under the profit margin scheme (e.g. a car dealer selling a second-hand car to another car dealer); or
 - o From a VATable person who could not recover the VAT charged on the goods.
- Not recover the input VAT on the incidental expenses related to the acquisition of the goods
- Issue and retain the correct documentation.

16.3. Computing the profit margin

The profit margin is calculated by deducting the purchase price from the selling price of the good. The profit margin is considered inclusive of VAT. In order to determine the value of a supply (exclusive of VAT) under the profit margin scheme, the following formula can be applied:

$$\text{Profit margin} \div 1.1$$

In order to determine the output VAT due on a supply under the profit margin scheme, the following formula can be applied:

$$\text{Profit margin} \div 11$$

Where the purchase price exceeds the selling price, no VAT is applicable on the supply of the good.

The selling price is the consideration received for the supply of the good, including incidental expenses directly linked to the supply when charged by the supplier (e.g. commission, packaging, transport or insurance, etc.).

The purchase price is the price paid by the supplier to acquire the good, including the incidental expenses directly linked to the purchase where charged by the supplier of the good.

Example

In June 2022, a VAT registered car dealer purchases a second-hand car from a private individual for BHD 2,000. The private individual had purchased the car in February 2022 and had incurred 10% VAT on its purchase. In August 2022, the car dealer resells the car to another private individual for BHD 3,000 (BHD 2,900 for the car and a BHD 100 administration fee).

The car dealer obtained approval from the NBR to apply the profit margin scheme on supplies of second hand cars. The calculated value of the supply and related VAT (at 10%) is:

- *The margin on this supply is BHD 1,000 (BHD 3,000 – BHD 2,000)*

- *The VAT exclusive value of the supply is BHD 909.091 (BHD 1,000 ÷ 1.1)*
- *The amount of output VAT applicable to this supply is BHD 90.909 (BHD 1,000 ÷ 11)*

16.4. Documentation required to apply the profit margin scheme

A VATable person supplying goods subject to VAT under the profit margin scheme must issue a VAT invoice. The VAT invoice must indicate clearly that VAT has been imposed using the profit margin scheme and must not show any VAT amount.

Where the VATable person selling goods under the profit margin scheme purchased these goods from a VATable person who himself applied the profit margin scheme, he is required to retain the invoice issued by his seller to evidence the acquisition under the profit margin scheme.

Where the VATable person selling goods under the profit margin scheme purchased these goods from a non-VATable person, he is required to self-issue a VAT invoice to evidence that the goods were acquired from a non-VATable person. This VAT invoice must be signed by the person from whom he acquired the goods, or by his authorized signatory.

16.5. Input VAT recovery while using the profit margin scheme

VAT charged on goods sold under the profit margin scheme cannot be recovered by the purchaser of the goods.

A VATable person supplying goods under the profit margin scheme is not entitled to recover input VAT on his incidental expenses relating to the acquisition of goods where these expenses are included in the selling price of the goods.

16.6. Challenge by the NBR of the application of the profit margin scheme

Where the use of the profit margin scheme is challenged by the NBR, the supplier is required to compute the output VAT on the total value of the supply of the goods (as opposed to the profit margin) and to adjust the output VAT amount accordingly. He is also required to issue a valid VAT invoice / credit note to support this adjustment.

The supplier can also claim the recovery of input VAT on incidental expenses related to the acquisition of the goods, to the extent all the conditions for input VAT recovery are met (please see section 10 of this Guide for further details).

17. VAT Administration

17.1. Introduction

This section provides an overview of the various VAT administrative processes related to VAT, including the submission of VAT ruling requests, VAT assessments and objection procedures.

17.2. VAT rulings

While the VAT Law, Executive Regulations, Public Clarifications and Guides aim to provide clarity on the operation of VAT in Bahrain, there may be instances where a VATable person is uncertain about the VAT implications of a supply, transaction or series of transactions. In such cases, a VATable person (or his VAT representative or VAT agent) may apply for a VAT ruling from the NBR seeking guidance on how to interpret and apply specific provisions of the VAT Law and its Executive Regulations. A VAT ruling should only be sought where the person making the request has carried out detailed analysis on the specific issue and uncertainty remains.

Until the NBR issues a response to a request for VAT ruling, it is recommended that the VATable person applies the VAT Law and its Executive Regulations based on the most prudent interpretation.

17.3. VAT audits

17.3.1. Definition

A VAT audit is the procedure whereby the NBR will assess the general compliance level of a VATable person with the VAT legislation and whether the net amounts of VAT declared and paid by that VATable person are correct. An NBR assessment or audit can cover one or more VAT periods.

During an audit, the NBR will examine the records and documents that a VATable person is required to maintain.

When the audit is complete and the NBR has determined that an additional amount of VAT is payable, the NBR will issue a VAT assessment seeking payment of that VAT.

17.3.2. Frequency of audit

The frequency of audit will vary from one VATable person to another depending notably on the expected risk to revenue collection. The frequency of VAT audits may vary based on factors such as:

- The size of the business or its complexity;
- The track record of the VATable person in complying with his VAT obligations; and

- Whether the VATable person is in a refund position (e.g. recurring refundable position, significant amount of net VAT refundable, unusual refundable position given the VATable person's profile, etc).

The NBR cannot re-assess the net VAT relating to a VAT period that has already been assessed, unless there is discovery of new information that was not available at that time and this information requires a new assessment.

17.3.3. Where and when a VAT audit takes place

A VAT audit may be carried out either at the VATable person's premises or from the NBR's offices.

VAT audits will usually be conducted during the NBR's official working hours. However, in exceptional cases, a VAT audit may be carried out outside official working hours. Exceptional cases may include where a VATable person is suspected of VAT fraud or there is urgency to finalize the VAT audit.

17.3.4. Knowing that a VAT audit is taking place

For distance audits, the VATable person may receive a request from the NBR for additional information and documents to be provided for the purpose of the audit and providing a specific deadline for sharing these documents with the NBR.

For on-site audits, the NBR may inform the VATable person about the visit in advance. The notice provided by the NBR to the VATable person in relation to the intention to carry out an on-site audit may include the expected start date, location of the VAT audit and the records that the VATable person should make available for review. This should allow sufficient time for the VATable person to prepare the relevant records for review and ensure that relevant employees are available during the VAT audit period.

Unannounced VAT audits may also take place notably for VATable persons who are suspected of VAT evasion or other serious crimes.

17.3.5. NBR powers during a VAT audit

The purpose of a VAT audit is to check the overall compliance of the VAT payer in fulfilling his VAT return, in terms of the validity of the transactions, its completeness and accuracy. To perform its duty, the NBR may:

- Request access to books, records and other documents such as VAT invoices, either in a printed or in an electronic format and request copies of such documents where necessary;
- Take a sample of the VAT payer databases, accounting system and any other files needed to validate the accuracy of VAT transaction reporting;
- Take or request samples of any goods found within means of transport or places used for the supply of goods;

- Enter into the VATable person's work premises or any other place of business for inspection;
- Access any means of transport used for the carriage of goods;
- Take all necessary steps to gather the evidence to examine the extent of the VATable person's compliance;
- Question employees on the VATable person's business affairs and procedures;
- Close a VATable person's business on a precautionary basis in order to carry out the inspection; and
- Record any violations noticed during the on-site visit and prepare the necessary reports.

17.3.6. Results of a VAT audit

Where a VAT audit evidences non-compliance with the VAT legislation, a VAT assessment decision will be notified to the VATable person. The assessment notice issued to the VATable person must include the following:

- The reasons for the assessment, facts, information and the legal basis;
- The value of the net VAT due, VAT differences and penalties where applicable; and
- The date of payment for the VAT due and penalties where applicable.

The NBR must notify the decision by e-mail and post. The date of receipt of the assessment is considered the date on which the NBR sent it to the VATable person or his VAT representative.

A VATable person aggrieved by the decision of the NBR, with regards to a VAT audit, has the right to object this decision to the VAT Appeals Review Committee. Additional information on the appeals process is discussed in section 17.4 below.

17.4. Requesting a review of an assessment

If a VAT payer has an objection to the content of an assessment issued by NBR, he may request the Reviews and Appeals Section at NBR to conduct a review of the assessment by sending a request using the "Review Request" tile on the homepage of NBR portal. A request must be made within 15 days of being notified of the assessment.

A review of an assessment will consider all the information available to the NBR on the matter subject to the assessment and the relevant provisions of the VAT Law and its Executive Regulations.

Within 30 days of submitting a request for review, a VAT payer will receive a response from the NBR:

- Seeking additional information within a deadline specified by the Reviews and Appeals Section;
- Informing the VAT payer that the review period has been extended by an additional 30 days; or
- Setting out a decision to uphold, amend or cancel the assessment under review.

If a VAT payer does not receive a response from the NBR within 30 days of making a request for review of an assessment, he should consider his request for review as rejected, and the related assessment as a decision by the NBR.

A VAT payer is not required to pay the disputed VAT amount in order to request a review. Furthermore, there is no fee payable to request a review.

17.5. Objection to the VAT Appeals Review Committee

Once a VATable person receives an assessment notice decision or a decision for administrative fines from the NBR, he may object to the VAT Appeals Review Committee within thirty days from the date of notification of the decision.

The date of notification of the NBR's decision is the date on which the NBR sent it to the VATable person or his VAT representative.

While objecting to the decision of the NBR, the VATable person is required to pay, if applicable:

- The VAT due when the objection relates to the decision to impose an amount of VAT;
- The administrative fine where the objection relates to the decision to impose an administrative fine; and
- The prescribed fee of BHD 50 per decision being objected to (in accordance with Ministerial Decree No. 33 of 2020).

The objection submitted to the VAT Appeals Review Committee must include, at the minimum, the following information

- Name of the objector (VATable person objecting the decision), his VAT Account Number and address of place of business or postal address;
- A summary of the objection, together with the reasons for the objection and the legal basis;
- The VAT period to which the objection relates;
- Documents or any other information supporting the objection; and

- The email address of the VAT representative or VAT agent of the objector, where applicable.

The VAT Appeals Review Committee will notify the objector of the hearing date of the objection at least ten days beforehand.

The VAT Appeals Review Committee will issue its recommendation on the objection to the Minister or his delegate, within thirty days from the date of the submission of the objection. The Minister or his delegate will then have to approve, amend or cancel the recommendation within fifteen days from the receipt of the recommendation.

Where the objector does not receive any communication from the NBR within the prescribed period, the objection shall be considered rejected.

A VATable person may appeal against a decision of the VAT Appeals Review Committee with the competent court in Bahrain within sixty days from the date of notification of a rejection of his objection.

17.6. Deadlines

The VAT Law provides specific deadlines to ensure reasonable compliance with VAT requirements. If such deadlines are not met, penalties and sanctions will be imposed.

A deadline provided by the VAT legislation or a notice issued by the NBR is always based on the Gregorian calendar and must be computed in accordance with the following guidelines:

- The date of the notification is not to be considered within the deadline (for example, if a VATable person receives an e-mail from the NBR requiring an action to be completed within five days, the day of receipt of the e-mail does not count as part of the five days); and

All timelines are calculated from the start of the day until midnight at 11:59 pm, unless specified otherwise.

17.7. Statute of limitations

The statute of limitations is five years:

- No claim for additional VAT can be made by the NBR after five years from the end of the VAT period to which the additional VAT relates.
- No claim for VAT wrongfully recovered can be made by the NBR after five years from the date the VAT was paid.

The limitation period is interrupted in the following cases:

- The VATable person receives an assessment notice from the NBR;

- The VATable person receives a request for payment from the NBR;
- The VATable person submits a refund request to the NBR;
- VAT Appeals Review Committee dispute; and
- Any causes of interruption as provided for in the Civil Code.

17.8. Issuing VAT certificates

There may be cases where a VAT payer requests a VAT certificate including:

- A hard copy VAT registration certificate stamped by the NBR to produce to a foreign revenue authority as evidence that the VAT payer is registered for VAT in Bahrain; and
- A letter from the NBR setting out VAT relevant information on a VAT payer.

An application for a VAT certificate can be made to the NBR. In accordance with Ministerial Decision No. 33 of 2020, a fee of BHD 50 is payable for each VAT certificate issued.

18. VAT agents and VAT representatives

18.1. Introduction

In order to help VAT payers with complying with their VAT obligations, Bahrain's VAT Law provides for the concept of VAT agents and VAT representatives. An overview of the role of VAT agents and representatives is as follows:

A VAT agent is a third party who helps the VAT payer in fulfilling his VAT obligations such as:

- Preparing and submitting VAT returns to the NBR on behalf of a VAT payer
- Making enquiries to the NBR on behalf of VAT payer
- Submitting reconsideration requests and filing VAT appeals to the NBR on behalf of the VAT payer

A VAT representative carries out similar functions to a VAT agent. However, a VAT representative can only be appointed by a non-resident VAT payer. Further, a VAT representative becomes jointly liable with the VAT payer who appointed him to pay any VAT (including penalties) due to the NBR and replaces the VAT payer in the relationship with the NBR.

A person intending to act as a VAT agent or representative on behalf of a VAT payer must be authorized by the NBR as a VAT agent or representative. The VAT payer may then appoint that person as his VAT agent or representative.

18.2. Becoming an authorized VAT agent or representative

A person wishing to be an authorized VAT agent or representative must apply through the NBR portal. Either a natural or legal person can apply for authorization. In either case, the person must demonstrate that he meets the conditions to be a VAT agent or representative set out in the Executive Regulations:

- He must be a resident in Bahrain;
- He must be a person of good conduct and reputation and must never have been sentenced to a restriction of freedom in a crime against honor;
- A natural person must hold a university degree, accounting or legal qualification which has been certified and approved by the Ministry of Education; and
- A legal person must carry on the proposed VAT agency / representative services under a valid and current commercial registration.

In accordance with Ministerial Decision No. 33 of 2020, a registration fee amounting to BHD 300 is payable on submission of an application to be a VAT agent or representative.

Once being authorized, the VAT agent or representative will receive a certificate and unique VAT registration number. The authorization as VAT agent or representative is valid for three years, but can be renewed subject to meeting the relevant conditions and paying the renewal fee of BHD 300.

18.3. VAT payer appointing or removing a VAT representative or agent

The appointment of a VAT agent or representative must be made on the NBR portal. In order to appoint a VAT representative, the VAT payer must execute a power of attorney notarized by Ministry of Justice allowing the VAT representative to act in the name of the VAT payer in respect of all VAT obligations in Bahrain.

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

A VATable person must notify the NBR of the removal or termination of a VAT representative or VAT agent within thirty days from this change.

19. 2019 Transitional rules relating to VAT introduction

19.1. VAT registration requirements for the year 2019

The calendar year starting 1 January 2019 was a transitional year for VAT purposes. In this respect, the requirements to be registered for VAT from 1 January 2019 (mandatory registration) were as follows:

Mandatory VAT registration on 1 January 2019

- VATable persons with annual supplies for 2019 exceeding or expected to exceed BHD 5,000,000 should have registered for VAT with an effective date of 1 January 2019.
- VATable persons with annual supplies for 2019 exceeding or expected to exceed BHD 18,750, but lower than or equal to BHD 5,000,000 were entitled to register for VAT with an effective date of 1 January 2019.

Registration applications should have been submitted to the NBR no later than 20 December 2018. The submission of the application on time was not enough to be considered as a VATable person. The NBR had to review the application and it is only when an application was approved and a registration certificate is issued that a person was considered as a VATable person.

Mandatory VAT registration on 1 July 2019

- VATable persons with annual supplies for 2019 exceeding or expected to exceed BHD 500,000 but lower than or equal to BHD 5,000,000 were required to register for VAT with an effective date of 1 July 2019.
- VATable persons with annual supplies for 2019 exceeding or expected to exceed BHD 18,750, but lower than or equal to BHD 500,000 were entitled to register for VAT with an effective date of 1 July 2019.

Registration applications were required to be submitted to the NBR no later than by 20 June 2019.

VAT registration during the year 2019

- VATable persons exceeding the BHD 5,000,000 threshold during 2019 (where they did not forecast exceeding this threshold) should have registered for VAT:
 - Within 30 days of the last day of the month when they exceeded the threshold; or
 - Within 30 days prior to the first day of the month when they expected to exceed the threshold.
- VATable persons exceeding the BHD 500,000 threshold after 1 July 2019 (where they did not forecast exceeding this threshold) should have registered for VAT

- Within 30 days of the last day of the month when they exceeded the threshold; or
 - Within 30 days prior to the first day of the month when they expected to exceed the threshold.
- VATable persons with forecasted annual / actual value of supplies exceeding the BHD 18,750 threshold, but below the BHD 5,000,000 threshold during 2019 (where they did not forecast exceeding this threshold) were entitled to register for VAT with an effective date in 2019.

VAT registration on 1 January 2020

- VATable persons exceeding the mandatory registration threshold of BHD 37,500 on 1 January 2020 (based either on the 12 previous months test or on the 12 upcoming months test) were required to register with an effective date of 1st January 2020.

Registration applications had to be submitted to the NBR no later than 20 December 2019.

A summary of the above information is below.

Registration phasing and thresholds

		Transitional period		Steady state
		Dec 20 th 2018	June 20 th 2019	Dec 20 th 2019
Registration deadline		●	●	●
	Mandatory Registration	> 5,000,000	> 500,000	> 37,500
Voluntary Registration	Annual Supplies in BHD	>18,750	>18,750	>18,750

19.2. VAT periods for 2019

In order to facilitate the compliance process for the first year of VAT, the following VAT periods applied for 2019:

Annual Supplies in BHD	Registration dates	VAT Periods	Filing Periods
> 5,000,000 (a)	Nov – Dec 2018	Jan – Mar 2019	April 2019 (a)
	Nov – Dec 2018	Apr – Jun 2019	July 2019
	Nov – Dec 2018	Jul – Sep 2019	October 2019
	Nov – Dec 2018	Oct – Dec 2019	January 2020
5,000,000 ≥ > 18,750	Jan – Jun 2019	Jan – Jun 2019	July 2019 (b)
		Jul – Sep 2019	October 2019 (c)
	Jul – Sep 2019	Oct – Dec 2019	January 2020
		Jul – Sep 2019	Jul – Sep 2019
	Oct – Dec 2019	Oct – Dec 2019	January 2020
		Oct – Dec 2019	Oct – Dec 2019

(a) For VATable persons exceeding BHD 5,000,000 before 1 January 2019, but failing to notify NBR prior to this date, the first VAT period started on the effective date of registration (1 January 2019), and ended on 31 March 2019

(b) For VATable persons whose registration took effect after 1 January 2019 but before 1 July 2019, the first VAT period started on the effective date of their registration and ended on 30 June 2019, regardless of value of annual supplies

(c) For VATable persons whose registration took effect on or after 1 July 2019, but before 1 October 2019, the first VAT period started on the effective date of their registration and ended on 30 September 2019, regardless of value of annual supplies

(d) For VATable persons whose registration took effect on or after 1 October 2019 but before 31 December 2019, the first VAT period started on the date of their registration and ended on 31 December 2019, regardless of value of annual supplies

After 31 December 2019, these transitional VAT periods no longer applied, and every VATable person is required to follow the VAT periods prescribed in the VAT Law and its Executive Regulations (please consult section 12.2 of this Guide for further details).

19.3. Transitional VAT due date rules - supplies spanning 1 January 2019

Complications may arise in determining the VAT liability of supplies of goods or services made under contracts signed before 1 January 2019, but which span 1 January 2019.

In order to assess the VAT liability of these supplies, the VAT due date rules such as the ones covered under section 8.5 of this Guide should, in principle, be followed. However, the VAT Law contains a specific change to these rules.

Where a payment was received, or an invoice was issued before 1 January 2019, this payment or invoice should be ignored if the supply of the goods or services, to which the payment or invoice relates, actually takes place (in full or in part) on or after 1 January 2019. In this case, the (portion of) supply actually performed in 2019 must be subject to VAT (unless it is VAT exempt).

Example

A company sells a gym membership starting on 1 October 2018 and ending on 30 September 2019 for BHD 200. The membership fee is paid in full on 1 October 2018.

As the contract constitutes a continuous supply of services, its VAT due date should, in principle, be 1 October 2018 (i.e. the date where the payment was received by the supplier) and no VAT should be applicable on the full fee received. However, in accordance with the VAT transitional rules, this payment triggers a VAT point in 2018 for a supply to be partially performed in 2019. Therefore, this payment must be ignored and the portion of the supply taking place in 2019 is subject to VAT at the rate of 5%.

The membership contract is silent on the VAT position. As a result, the company will have to consider the fee as VAT inclusive and it will not be entitled to charge an additional amount of 5% VAT on top of the fee already received. On this basis, the company will be required to report the following in its VAT return for the VAT period covering 1 January 2019:

- *Consideration received for the portion of the supply performed from 1 January 2019 to 30 September 2019 (VAT inclusive): $BHD\ 200 \times 9 \div 12 = BHD\ 150$*
- *Value of the supply subject to 5% VAT: $BHD\ 150 \div 1.05 = BHD\ 142.86$*
- *Output VAT due: $BHD\ 150 \div 21 = BHD\ 7.14$*

The table below summarizes several examples of the transitional rules:

Supply	VAT due date (under steady state rules)	VAT due date and value of supply (under transitional rules)
Supply of Goods and Services (not continuous)	Prior to 2019: When goods supplied/service completed and payment(s) received prior to 1 January 2019	No change: no VAT due
	Prior to 2019: When goods supplied/services completed prior to 1 January 2019 but payment(s) received on or after that date	No change: no VAT due
	Prior to 2019: When payment(s) received prior to 1 January 2019, but goods supplied / services completed on or after 1 January 2019	Change: VAT due date is moved to when the goods supplied / services completed. VAT is due on the total value of the supply, including the payment(s) received prior to 2019 (unless 0% applies or the supply is exempt).
Continuous supplies	Prior to 2019: Payment prior to 1 January 2019, covering performance of the supply on and after 1 January 2019 (in full or in part)	Change: VAT due date becomes 1st January 2019. No VAT due on the portion of the value of the supply performed prior to 1 January 2019 VAT due on the portion of the value of the supply performed on or after 1 January 2019 (unless 0% or exemption applies).
	On or after 1 January 2019: Payment and VAT invoice on or after 1 January 2019, covering performance of the supply prior to 1 January 2019 (in full or in part)	No change: VAT due date on the earlier of receipt of payment, issue of a VAT invoice or payment due date mentioned on the VAT invoice; and in any case no later than by 31 December 2019. No VAT due on the portion of the value of the supply performed prior to 1 January 2019

Supply	VAT due date (under steady state rules)	VAT due date and value of supply (under transitional rules)
		VAT due on the portion of the value of the supply performed on or after 1 January 2019 (unless 0% or exemption applies).
Supply of goods deposited and supply of goods pledged as collateral	VAT due date is the earlier of the bailee or creditor selling the goods or the bailee or creditor deducting a cash amount deposited as a bond in order to definitively acquire the goods	No change
Supply of goods provided on a trial basis	VAT due date is the earlier of the buyer accepting the goods on a definitive basis or the date of issue of an invoice.	Date of buyer accepting the goods on a definitive basis
Operating lease	Agreed date of payment / payment received prior to 1 January 2019 Agreed date of payment / payment received on or after 1 January 2019	Change: VAT due date becomes 1 January 2019. No VAT due on the portion of the value of the supply performed prior to 1 January 2019 VAT due on the portion of the value of the supply performed on and after 1 January 2019 (unless 0% or exemption applies). No change: on or after 1st January 2019 No VAT due on the portion of the value of the supply performed prior to 1 January 2019 VAT due on the portion of the value of the supply performed on and after 1 January 2019 (unless 0% or exemption applies).
Financial lease	VAT due date of supply is the date of the supply of the goods.	No change
Supply of goods through	VAT due date is the date where the amount stored in the vending	No change

Supply	VAT due date (under steady state rules)	VAT due date and value of supply (under transitional rules)
a vending machine	machine is collected (except for card only machines where it is when the funds are received).	
Supply of goods with a right of refund	VAT due date is the date of the supply of the goods.	No change
Compulsory supply of goods	VAT due date is the date of the supply the goods.	No change
Supply of a voucher (i.e. where a voucher is issued or sold for consideration higher than its face value)	VAT due date is the date of issue of the voucher / the date of its subsequent supply.	No change
Single-purpose voucher (SPV)	VAT due date is the date of issue of the SPV / the date of its subsequent supply.	No change
Multi-purpose voucher (MPV)	VAT due date is the date on which the MPV is exchanged for goods or services	No change
Where the supply is a deemed supply	VAT due date is: For goods or services provided for no consideration: where the goods are made available to the third party or where the services have been completed For goods the VATable person retains upon deregistration: the effective date of deregistration. For transfer of the VATable person's own goods from Bahrain	No change

Supply	VAT due date (under steady state rules)	VAT due date and value of supply (under transitional rules)
	to another Implementing State or vice versa: date of start of the transfer.	
	For the change in the use of a good: date where the change occurred.	

19.4. Implementing States and Intra-GCC VAT rules

The status of Implementing State is given by the VAT Law to a GCC Member State that has implemented a national VAT legislation compliant with the Framework and that recognizes Bahrain as an Implementing State. In this respect, an announcement of the GCC Member States recognized by Bahrain as Implementing States for VAT purposes will be made by the NBR.

A GCC Member State that is not an Implementing State is treated as a non-Implementing State. As a result, any supplies of goods and services to and from such a country are considered as made to and received from a state outside the GCC. Residents in these GCC Member States are also considered as residents from outside the GCC and subject to the same rules as the residents of non-GCC Member States.

With regards to Intra-GCC supplies involving the transfer of goods between Implementing States, such supplies will be treated as exports / imports of goods until such time the Electronic Service System is in place and applied in all Implementing States.

20. Final note

This VAT General Guide is subject to amendment and updates to cover any new VAT Law, regulations, clarifications or updates.

21. Appendix

Appendix A. VAT common issues

This section covers common VAT issues that VATable persons may face when assessing their VAT liability on their VATable supplies or expenses.

A.1. Head-office / branch relationships

Transactions occurring between a head-office and its branch(es) are considered as being outside the scope of VAT since they happen within the same legal person. This is the case when the head office and the branches are all located in Bahrain, but also when the head-office and the branches are not all located in Bahrain.

Some of the VAT consequences arising from a head-office / branch relationship are as follows:

- A Bahrain head-office and its Bahrain branches are registered under a single VAT Account Number and report all their transactions in the same VAT return on a consolidated basis.
- Allocations of costs between a head-office and its branches are disregarded for VAT purposes, whether these allocations are local or cross border.
- A representative office / branch in Bahrain of a foreign entity, the activity of which is solely to support its head-office, is entitled to recover the VAT charged on its expenses for supporting its head-office provided the head-office's activity would have been VATable if carried out in Bahrain
- When a supply of services is made by a Bahrain supplier to a foreign entity with a Bahrain branch, the foreign entity will be considered as non-resident in Bahrain for the purposes of that specific supply if its Bahrain branch(es) is not the most closely connected to the supply (i.e. the branch is not the recipient of the services). See Appendix C for a discussion on how to determine the place most closely connected with a supply.
- When a foreign entity with a branch in Bahrain supplies services to recipients in Bahrain, it will be considered as non-resident in Bahrain for the purposes of that specific supply if its Bahrain branch is not the most closely connected to the supply (i.e. the branch does not supply the services). Again, see Appendix C for a discussion on how to determine the place most closely connected with a supply.

A.2. Disclosed Agent vs Undisclosed Agent

Where a person acts as an agent or an intermediary, it is important to identify whether he acts as a disclosed agent or an undisclosed agent (or commissionaire).

The VAT treatment applicable to each of these agents is very different and is summarized below. It is critical to identify, based notably on the terms of the existing agreements, whether a VATable person acts as one or the other.

Disclosed agent

A disclosed agent is an intermediary who acts in the name and for the account of another person. In a supply of goods or services, a disclosed agent can act either in the name and for the account of the buying party or in the name and for the account of the supplying party.

In any case, the buying and selling parties know the identity of each other and contract directly between themselves for the supply while the disclosed agent simply facilitates the conclusion of the contract / supply.

For VAT purposes, there are two separate transactions:

- A supply of goods or services directly between the supplying party and the buying party; and
- A supply of agency / intermediation services between the disclosed agent and the person he represents (i.e. either the buyer or the seller).

The disclosed agent, if a VATable person, is liable to apply the correct VAT treatment solely on remuneration earned for his intermediation services (usually a commission or success fee). He is also required to issue a VAT invoice to the person for whom he acts as an intermediary.

The liability for the supply of goods or services lies directly and exclusively with the supplying party and the buying party.

Example

A private individual wishes to take out car insurance. He asks an insurance broker in Bahrain to provide him with a list of the best insurance products matching his requirements. Once the private individual chooses the insurance policy, the broker assists him with signing the insurance contract. The insurance contract is signed directly between the private individual and the insurance company. The broker will receive a commission (usually a percentage of the premium paid by the policy holder) in exchange for his services.

The broker acted as a disclosed agent, in the name and on behalf of the private individual, in this supply of insurance services. There are two supplies for VAT purposes:

- *A supply of insurance services between the insurance company and the private individual. The insurance company will apply 10% VAT on the premium charged to the private individual.*
- *A supply of intermediation / brokerage services between the insurance broker and the private individual. The broker will apply 10% VAT on his brokerage fee charged to the private individual.*

Undisclosed agent

An undisclosed agent is an intermediary who acts in his own name but for the account of another person. In a supply of goods or services, an undisclosed agent always acts in his own name but for the account of either the person actually supplying the goods or services or the person actually requiring the goods or services.

The undisclosed agent is interposed between the supplying party and the receiving party and these do not know the identity of each other and do not contract directly. The undisclosed agent enters into a contract, in his own name, with respectively the supplier and the buyer.

The undisclosed agent is considered to be acting as a principal in the supply of the goods or services to the purchaser (buy-and-sell arrangement). For VAT purposes, there are two separate transactions:

- A supply of goods or services from the actual supplier to the undisclosed agent; and
- A supply of the same goods or services from the undisclosed agent to the actual customer.

From a VAT perspective, the undisclosed agent will recognize a purchase of the goods or services and an on-sale of these goods or services. Any mark-up applied (if any) by the undisclosed agent when re-selling the goods or services is considered part of the value of the supply of these goods or service (i.e. it is not treated as a separate element from the selling price of the goods or services).

As the undisclosed agent is considered to be selling the goods or services to the actual customer, he is, in principle, entitled to recover the VAT charged on these goods or services by the actual supplier (subject to all the conditions being met). It is expected that two VAT invoices are issued, one by the actual supplier to the undisclosed agent and another by the undisclosed agent to the actual customer.

Example

A local computer company, a VATable person, wishes to sell computers in Bahrain. It contracts with a local retail company, which will offer the computers for sale in its shops. It is agreed that the selling price to customers in the shops must not exceed BHD 100 (VAT inclusive) per computer (BHD 15 more than the VAT exclusive price agreed between the computer company and the retail company, i.e. BHD 85).

When purchasing the computer, the customers will have a contractual relationship with the local retail company, which sells the computer at BHD 100 each (VAT included).

The retail company itself is regarded as purchasing the computers from the computer company for the agreed amount of BHD 85 (plus VAT) each.

The computer company is required to charge 10% VAT on the BHD 85 per computer (i.e. BHD 8.5 VAT) and to issue a VAT invoice to the retail company. The retail company is required to charge 10% on the selling price to the customers and to issue a VAT invoice to the customer (BHD 90.909 + BHD 9.091 VAT). The retail company will be able to recover the VAT charged by the computer company.

Appendix B. Residence and place of residence

The place of residence of a person is defined in the VAT Law as either the “place of business” or a “fixed establishment” or the “usual place of residence”.

Place of Business

The place where the business is legally established or the place of its actual management, where the key decision relating to the business operations are taken, when different from the place of establishment.

For example, when a company is legally incorporated in Bahrain and is effectively managed and operated from Bahrain, its place of business is in Bahrain.

Fixed Establishment

Any fixed location for the business other than the place of business, where business is conducted, and which is characterized by the permanent presence of human and technical resources in a capacity that enables the person to supply or receive goods and services.

Branches and representative offices will usually be fixed establishments for VAT purposes, to the extent they meet the criteria listed in the definition.

If a company is not legally incorporated in Bahrain but rents offices in Bahrain with local employees performing business from these offices all year-long, the company is considered to have a fixed establishment in Bahrain.

Usual place of residence

This is the place where a natural person usually resides where he / she does not have a place of business or a fixed establishment.

Where a person does not have a place of residence in Bahrain (no place of business, fixed establishment or usual place of residence), he shall be considered as a non-resident for Bahrain VAT purposes.

Appendix C. Place most closely connected with a supply

C.1. Introduction

There are many cases where an entity will have more than one place of residence for VAT purposes. Some examples include:

- A UK company may be incorporated and managed in the UK (and thus be resident there) and may also have a branch in Bahrain. The Bahrain branch is treated as a fixed establishment for Bahrain VAT purposes (assuming it meets the definition in the VAT Law). Therefore, the entity is resident in both Bahrain and the UK from a VAT perspective.
- A Bahraini entity was incorporated and is managed in Bahrain and is therefore a resident here for VAT purposes. It has a branch in Saudi Arabia which is treated as a fixed establishment. It is therefore a resident in Saudi Arabia also.
- An entity is incorporated and managed in Australia and has branches in Bahrain and the UAE. It therefore has three places of residence, one in each of these countries.

In order to determine the correct VAT treatment of a supply made by or to a person with more than one place of residence, it is important to determine which place of residence is most closely connected with making of or receiving that supply. It is that place of residence that will determine, for example, whether the supplier should charge VAT or what rate of VAT applies. See Sections 5.4.2 and 6.3.2 of this Guide for the circumstances in which it is necessary to determine the place most closely connected with making or receiving a supply.

In many cases, it will be clear which place of residence of an entity is most closely connected with the supply. For example, a Bahraini fixed establishment of a UK company may receive an order to supply services to a Bahraini customer. It only uses local employees to provide the services, all work on the project is done in Bahrain, the billing is done by the Bahraini fixed establishment and the fee is paid to a Bahraini bank account. It is clear in this case that the Bahrain place of residence is the most closely connected with the supply. If the situation had been reversed with all work done from the UK and no involvement whatsoever from the Bahrain branch, the UK place of residence would be the most closely connected with the supply.

C.2. Determining the place most closely connected

The following factors should be considered in determining which establishment is most closely connected with a supply:

- Which establishment appears on the contracts, correspondence and invoices;
- Where the directors or other officials who entered into the contract to make or receive the supply are permanently based;

- At which establishment decisions are taken and controls are exercised over the performance of contracts;
- From which establishment the services are actually provided or, as the case may be, used or consumed;
- The nature of the work undertaken by each establishment to make or receive the supply, as the case may be;
- The extent of involvement of each establishment's personnel in the provision of or receipt of the supplies.

Following consideration of the above factors, it is evident that the Bahraini establishment has minimal involvement in making or receiving the supply, it will not be regarded as being the most closely connected with the supply. Where a Bahraini establishment's resources are only used for administrative support tasks such as accounting, invoicing and collection of debt claims without having any substantive role in the supply, the NBR will accept that that establishment is not the one mostly closely connected with the supply.

C.3. Examples

Example 1

Solutions Co, a UK based company with a branch office in Bahrain, supplies payment solutions, develops and sells software to clients. The development of the software solutions is undertaken exclusively in the UK where the engineers and all related personnel and facilities (R&D) for the development of the systems are located.

The head office signed a contract with Bahraini based clients (registered for VAT) for the supply of software and payment solutions. As per the contract, the supplier will provide maintenance services (e.g. upgrades) for a period of two years. The maintenance services will be provided remotely from the UK. Where necessary, local support from the branch will be obtained.

After the two-year period lapses, any upgrades to the system will be handled locally by the Bahrain branch under a separate contract to be concluded between the client and the branch at the time, if required. The head office will not be involved in maintenance after the two-year period.

The Bahraini branch is only responsible for providing administrative support to the head office such as:

1. *Issuing the invoice for the supply per the terms of the contract;*
2. *Collecting the invoices raised; and*
3. *Assisting during the commissioning phase of the systems and, to the extent required, where onsite presence to the client's premises is required.*

The place most closely connected to the supply to Bahraini clients is the UK on the basis that:

- *The contract was signed by the UK head office;*
- *The development of the solution is undertaken exclusively in the UK;*
- *The maintenance of the system during the two-year period will be undertaken by the UK head office remotely;*
- *The involvement of the branch's employees will be limited to exceptional cases where onsite support is needed, and will not be continuous;*
- *The branch's role will be limited to providing administrative support to the head office during the implementation of the system.*

Bahraini clients will account for VAT on the value of the software and the maintenance services under the reverse charge mechanism. The fact that the Bahrain branch of Solutions Co will be issuing the invoice does not influence the place from which the services are provided as the role of the branch is limited to mere administrative tasks and its involvement is minimal.

The Bahrain branch will be the establishment providing the maintenance services after the two-year period lapses, and it will be required to charge VAT at 10% on these services.

Example 2

XY Insurance Ltd, a Swiss based company with a branch in Bahrain, offers insurance coverage for clients in Bahrain, all of whom are registered for VAT. The Bahrain branch enters into a contract with a Bahraini company for the supply of employee health insurance. The Bahraini branch sends the contract to the head office in Switzerland for approval and signature. Once approvals are in place, invoices are raised and billing is done locally through the local branch. Payment of the insurance premiums is through bank transfer in Bahrain and all claim requests are collected, processed and paid by the Bahraini branch.

The place connected with the supply is the Bahrain branch on the basis that:

1. *The Bahrain branch is the one that actively pursued the client and agreed the terms and conditions of the contract etc;*
2. *All tasks relating to the contract (i.e. invoice, collection, receiving, processing, handling and payment of claims) is handled by the branch;*
3. *The head office's involvement is limited to merely approving and signing the contract;*
4. *The client has only dealt with and negotiated the contract with officials from the Bahrain branch.*

The Bahrain branch must charge VAT on the invoice to be issued.

Example 3

Construction Co, an entity established in Saudi Arabia signed a contract with Absolute Properties WLL, a Bahraini entity, for the construction of logistics warehouses. The contract was signed by the head office in Saudi Arabia. Construction Co also has a Branch in Bahrain which is engaged in the provision of construction services. Construction Co instructs its Bahrain branch to provide the services. The invoicing for the contract will be done from the Bahrain branch.

The place connected with the supply is the Bahrain branch on the basis that:

- 1. The head office involvement is limited to the negotiations and the conclusion of the contract without any further involvement in the project;*
- 2. The Bahrain branch is the one that will be providing the construction services in their entirety; and*
- 3. The Bahrain branch will be invoicing the services provided.*

Even if the Saudi head office had been the place most closely connected with the supply, Bahrain VAT would have had to be charged as construction services relate to real estate and the place of supply of the service would have been Bahrain in any event.

Appendix D. Fees vs penalties

Suppliers may make charges to customers labelled as penalties or punitive charges. Such charges may be anticipated in the contractual terms between suppliers and their customers. From a VAT perspective, the name under which the charge is labelled and the fact such charge is anticipated in contractual terms shall not impact its VAT treatment.

As of 1 November 2024, all charges are considered VATable as they represent consideration for the broader scope of services provided unless the payment is in relation to an indemnification of an actual damage incurred. Such damages include instances where a person is awarded an amount for damages endured by a court, arbitration panel, or committee, or agrees to settle a dispute by accepting payment of damages.

All charges/fees imposed by banks, such as late payment fees or early termination fees are subject to VAT at the standard rate.

Examples of charges that are subject to VAT include but are not limited to:

- Where a supplier makes a supply available to a customer, but they do not avail themselves of all or part of that supply, and the supplier charges a payment to compensate them for having made the supply available that will normally be further consideration for that supply.
- Where a contract ends as a result of an action by the customer which causes the supplier to terminate a lease, then if the supplier charges a fee to cover the costs of making the supply, or an additional fee broadly equivalent to what would have been charged under the lease had it run as envisaged, then the payment is further consideration for the supply.
- Payments arising out of early contract termination will normally be further consideration for the contracted supply where the payments are linked to that supply.
- A charge for late return of a hire car will normally be subject to VAT as it is made for the supply of the car, and the customer is aware that an additional charge will be made and how much that charge will be or how the charge will be calculated.

Examples of punitive charges in nature that are out of the scope of VAT include but are not limited to the following:

- Where a supplier takes legal proceedings against its customer due to a dispute that arose, the court may order the customer to compensate the supplier because of the damages caused.
- Where a supplier enters into a contract with a customer (business), a breach of clauses agreed upon within the contract requires an arbitration panel, such panel mandates the customer to pay a remuneration.

