KINGDOM OF BAHRAIN

VAT REAL ESTATE GUIDE

AUGUST 2019

VERSION 1.1

الجهاز الوطني للإيرادات

National Bureau for Revenue

Contents

1. Introduction 2

1.1. Purpose of this Guide 2

1.2. About the National Bureau for Revenue (NBR) 2

1.3. Bahrain legal framework for VAT 2

2. Value Added Tax (“VAT”) 3

2.1. What is VAT? 3

2.2. How does VAT work? 3

2.3. VAT treatment in Bahrain 4

2.3.1. Supplies at the standard rate of 5% 4

2.3.2. Supplies at the rate of 0% 5

2.3.3. Exempt supplies 5

3. Overview of VAT in the real estate sector 6

3.1. Overview of VAT treatment 6

3.1.1. Sale and rental of real estate 6

3.1.2. Construction of new buildings 7

4. Sale and rental of real estate 10

4.1. Definition of real estate 10

4.2. VAT treatment 10

4.3. Supplies not considered as sale or rental of real estate 10

4.4. Serviced accommodation 15

4.5. Labour accommodation 16

4.6. Storage and warehousing 18

4.7. Real estate related services 19

4.8. Tax due date 20

4.9. Transfer of a going concern 22

4.10. Record keeping 23

5. Construction 24

5.1. Definition of construction 24

5.2. VAT treatment 24

5.3. Construction of new buildings 24

5.3.1. Introduction 24

5.3.2. Definition of a building 24

5.3.3. New building 25

5.3.4. Services qualifying for the zero-rate 26

5.3.5. Goods qualifying for the zero-rate 29

5.4. The supply of goods only 32

5.5. Multiple contractors and subcontractors 32

5.6. Certificate from main contractor or property owner 33
5.7. Apportionment of consideration 35
5.8. Use of real estate for a taxable person's own use 37
5.9. Snagging 38
5.10. Supplies made after the completion of a new building 39
5.11. Tax due date 39
5.12. Retention payments 40

6. Input tax recovery 42
6.1. General rules 42
6.2. Apportionment of input tax on residual expenses 42
6.3. Capital assets scheme 44

7. Tax clarification 46

Updates to this Guide

<table>
<tr><td rowspan="5">Version 1.1</td><td rowspan="5">22 August 2019</td><td>Section 4.3
Clarification on certain transactions not treated as an exempt supply of real estate:
• Provision of permission to use a specific area – vending machines, shelf space etc.
• Short-term retail and promotional stands rented for a period of less than one month
• Mooring rights for boats and ships and rental of jetties)</td></tr>
<tr><td>Section 5.3.2
Land reclamation is not a building for the purposes of the zero-rating on construction of new buildings.</td></tr>
<tr><td>Section 5.3.4
Clarification on application of the zero-rate to the provision of ready-mix concrete</td></tr>
<tr><td>Section 5.6
Further information on the procedures relating to certificates relating to new buildings</td></tr>
<tr><td>Section 5.7
Applying the zero-rate to advance and/or instalment payments.
Apportioning certain costs for zero-rating and standard rating on building an extension.</td></tr>
</table>

1. Introduction

1.1. Purpose of this Guide

This document sets out the general principles of Value Added Tax (VAT) in relation to the real estate sector in the Kingdom of Bahrain (Bahrain). The main aim of this document is to provide the reader with:

- An overview of the VAT rules and procedures in relation to the real estate sector in Bahrain and, if required, how to comply with them
- The necessary background and guidance to help you to determine 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. No responsibility is assumed for the VAT laws, rules or regulations in the Kingdom of Bahrain. This Guide is not a legally binding document and does not commit the National Bureau for Revenue or any taxpayer in respect of any transaction. This document should be used as a guideline only and is not a substitute for obtaining competent legal advice from a qualified professional.

Furthermore, this Guide should be read together with the VAT General Guide issued by the NBR and which is available on the NBR's website, www.nbr.gov.bh.

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 taxpayers and their tax 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
- 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. Value Added Tax (“VAT”)

Bahrain introduced VAT on 1 January 2019. The standard rate will be 5%. Certain goods and services are subject to a zero-rate (0%) of VAT and others are exempt from VAT.

2.1. What is VAT?

VAT is an indirect tax 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 5% if a supply of goods and services is made:

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

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

For general information on VAT, please refer to the VAT General Guide issued by the NBR which can be found on the NBR’s website, www.nbr.gov.bh.

2.2. How does VAT work?

If, as a VAT registered person, you make taxable supplies (i.e., supplies of goods or services subject to VAT), you must charge VAT on your supplies, and pay it to the NBR. This is your “output tax”.

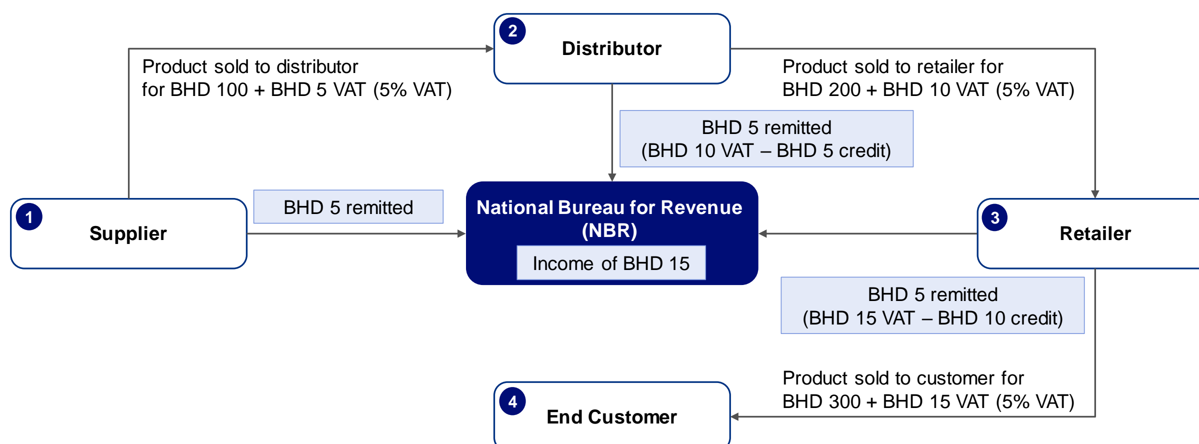
The VAT charged by your suppliers on your business expenses and the VAT you pay on your imports of goods and services is your “input tax”.

As a VAT registered person, you can reclaim from the NBR the input tax incurred on your purchases and imports to the extent that these expenses and imports are used to make taxable supplies. You cannot reclaim the 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).

On a regular basis, you will file a tax return to the NBR and pay the excess of your output tax over your input tax. If your input tax exceeds your output tax, you can ask for a refund of this difference from the NBR or you can carry it forward as a credit to use against future VAT liabilities. See the “Tax Periods” section of the VAT General Guide for more information on how often a VAT registered business must submit a tax return and pay any associated VAT.

© Kingdom of Bahrain | National Bureau for Revenue

Figure 1: VAT collection across the supply chain



2.3. VAT treatment in Bahrain

A supply of goods or services taking place in Bahrain for VAT purposes can be subject to VAT at the standard rate of 5% 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 happening in Bahrain. If you are a taxable person, it will help you identify the correct VAT treatment applicable to your transactions in Bahrain.

Table 1: Summary of VAT rates and policies

Treatment	Overview	Output Tax	Input Tax
Standard rate	5% VAT applied on goods and services	5%	Deductible
Zero-rate	Supplies are taxable, but the VAT rate charged is 0%	0%	Deductible
Exempt	Supplies on which no Tax is charged, and for which associated Input Tax is not deducted	N.A.	Not deductible

2.3.1. Supplies at the standard rate of 5%

Supplies of goods and services by a taxable person in Bahrain are generally subject to VAT in Bahrain at the standard rate of 5%, unless they are specifically subject to VAT at the zero-rate or exempt from 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 5%.

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 5%.

2.3.2. Supplies at the rate of 0%

Zero-rated supplies are those which are taxable at the rate of 0%. This means that no VAT is actually charged on the supply, but the supplier can still claim the input tax 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 5%, unless a VAT exemption applies.

2.3.3. Exempt supplies

Goods and services which are exempt from VAT are usually referred to as non-taxable 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 tax charged on his expenses used in making these exempt supplies.

© Kingdom of Bahrain | National Bureau for Revenue

3. Overview of VAT in the real estate sector

3.1. Overview of VAT treatment

3.1.1. Sale and rental of real estate

Under the VAT Law and its Executive Regulations, the sale and lease of real estate (including residential, commercial real estate and land) is exempt from VAT.[1]

Table 2: Summary of VAT treatment of supplies related to the sale and lease of real estate

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
Sale or lease of commercial or residential real estate	✓		
Sale or lease of land, including partially developed land	✓		
Labour accommodation where it meets the conditions of residential real estate	✓		
Car parking for one month or more, provision of serviced office space on an exclusive basis	✓		
Supply of hotel accommodation, car parking for less than one month, provision of serviced office space on a non-exclusive basis, rental of functional room, hall or facility			✓
Services which are charged separately from a supply of real estate[2]			✓
Serviced apartments			✓

[1] Article 55 of the Bahrain VAT Law, Article 82 of the VAT Executive Regulations
[2] For example, property management services, internet, television, security services for buildings, cleaning services, maintenance, pool lifeguard and similar services

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
Storage services			✓
Transfer of property as part of a going concern	*N/A – Out of scope of VAT*		

The scope of the VAT exemption is covered in section 4 of this Guide.

3.1.2. Construction of new buildings

The VAT Law and its Executive Regulations state that the construction of new buildings will be taxable at the zero-rate.[3]

Table 3: Summary of VAT treatment of services related to construction

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
Construction of a new building		✓	
Construction of extension to an existing building (where the extension adds an additional room or functional space to the building)		✓	
Site clearance works prior to the construction of a new building		✓	
Services provided by engineers and surveyors and similar services of a supervisory nature that relate to the construction of a new building		✓	
Civil engineering works relating to a new building		✓	

[3] Article 53(11) of the Bahrain VAT Law, Article 76 of the VAT Executive Regulations

© Kingdom of Bahrain | National Bureau for Revenue

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
Restoration, refurbishment and/or reconstruction works on an existing building			✓
Demolition services (even when on land on which a new building will be constructed)			✓
Architects' and interior design fees			✓
Landscaping			✓
Construction of swimming pools, saunas and steam rooms			✓

The VAT Law and its Executive Regulations state that goods supplied by a person making a supply of construction services, in the course of providing construction services for a new building, will also be zero-rated[4].

Table 4: Summary of VAT treatment of goods related to the construction services

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
Goods supplied as part of the provision of construction services relating to a new building where the goods are used, installed or incorporated into the building or the land on which the building is situated		✓	
Fixtures and fittings not permanently attached to a new building and which can be removed without damaging the building or the goods			✓
The supply, installation or assembly of furniture that is not affixed to the building			✓

[4] Article 76 of the VAT Executive Regulations

Real estate supply	Exempt	Zero-rate (0%)	Standard rate (5%)
The installation and/or supply of decorative lighting, carpets or movable partitions			✓
The provision and/or installation or hanging of artwork (even in the context of constructing a new building)			✓
Hiring of equipment to be used by a person supplying construction services			✓
Supply of goods to a person supplying construction services (where there are no construction services provided with the goods)			✓

The scope of the zero-rating is covered in section 5 of this Guide.

4. Sale and rental of real estate

4.1. Definition of real estate

For VAT purposes, real estate includes:

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

Real estate does not include any furniture, fittings, plant and apparatus which are not attached to land or a building and which can be removed without damaging the property.

Where residential accommodation is provided in the form of furnished or semi-furnished accommodation, the entire consideration will be considered as a supply of real estate, unless a separate charge for the furniture is made. However, it is important to consider whether the accommodation will meet the conditions for serviced accommodation as a different VAT treatment will apply (please see section 4.4 for further detail).

4.2. VAT treatment

The sale, lease or license of real estate located in Bahrain is an exempt supply, regardless of whether the real estate is residential, commercial or land (bare or partly developed). Some supplies will not be considered as real estate for VAT purposes (as described below in section 4.3) and the VAT implications of these supplies will need to be determined on a case by case basis.

VAT incurred on expenses or purchases (i.e., professional legal fees, refurbishment, etc.) that is attributable to making exempt supplies of real estate will not be recoverable by the taxable person.

Businesses that only make exempt supplies for VAT purposes and which do not receive taxable supplies of goods or services for which they are liable to account for VAT at 5% under the reverse-charge mechanism will not be able to register for VAT.

4.3. Supplies not considered as sale or rental of real estate

The following supplies will not be considered as the sale or rental of real estate and will therefore be taxable at the standard rate of 5%:

a. Hotel accommodation and related services

b. The provision of paid car parking for periods of less than one month

c. The provision of serviced office space where the customer does not have the right to use a designated space on an exclusive basis

d. Rental of a function room, hall or similar facility

e. Management services, utilities, telecommunications, internet and television charged for separately and in addition to the rent

f. Providing permission to affix equipment and signage to land or buildings

g. Provision of permission to use a specific area – vending machines, shelf space etc.

h. Short-term retail and promotional stands rented for a period of less than one month

i. Mooring rights for boats and ships and rental of jetties.

These are further discussed below.

Hotel accommodation and related services

Hotel accommodation will be taxable at the standard rate, regardless of the length of stay of the guest. For VAT purposes, a hotel is any commercial establishment that provides lodging or sleeping accommodation for guests and visitors.

All hotel services that are provided by a taxable person will be taxable at the standard rate including, but not limited to, the following:

- Services provided by hotels of all categories and levels. Such hotels include hotel apartments (regardless of the length of stay by a guest) that are considered tourist facilities, including tourist facilities that provide food and beverages, and other tourist facilities licensed to operate inside hotels
- Furnished apartments with a tourism license
- Resorts, including tourist facilities that provide food and beverages, and other tourist facilities licensed to operate inside resorts
- Tourist inns and rest lodgings
- Floating tourist hotels, including tourist facilities that provide food and beverages, and other tourist facilities licensed to operate inside floating tourist hotels

In addition, the provision of food and beverages in a hotel or restaurant will be taxable at the standard rate if provided by a taxable person.

When calculating VAT on hotel services, VAT is applicable on the total consideration payable by the customer including all other charges, taxes and similar amounts due, including any service charge collected on behalf of the Bahrain Tourism and Exhibition Authority and any government levies (where applicable).

Car parking

The supply of paid car parking for a period of less than one month will be taxable at the standard rate.

The supply of paid car parking for a period of more than one month will be exempt from VAT. This will be the case regardless of whether designated car parking spaces are provided which can be used on an exclusive basis, or whether the user may park in non-designated spaces in a car parking facility.

Example
ABC Co enters into an agreement with ParkCo to use ten car parking spaces for one year in ParkCo's multi-storey car park which has 100 spaces in total. ABC Co does not have the exclusive right to ten specific car parking spaces, but may use ten of any of these 100 spaces. *The supply by ParkCo will be seen as an exempt supply of real estate, even though ABC Co is not allocated spaces on an exclusive basis.*

If car parking is provided as part of a sale or lease of real estate for no additional charge, this will not be considered as a separate supply and the VAT treatment of the car parking will follow the VAT liability of the main supply of the real estate.

Serviced office space

The provision of serviced office space will be exempt where the customer has the right to use a designed space or part of the office on an exclusive basis. Where the customer does not have such a right (e.g., where he can use a "hot-office" or "hot-desk"), the supply will be taxable at the standard 5% rate.

Where the customer has exclusive use of serviced office space, but also receives additional services from the serviced office provider, such as access to telephones, internet, printers, meeting rooms, the provision of the exclusive office space will be exempt from VAT, but the provision of the other services will be taxable at the standard rate. The serviced office provider will need to apportion the consideration between the exempt and taxable components on a fair market value basis in order to apply the correct VAT treatment and issue tax invoices.

Example
ServiceCo, a serviced office provider, enters into an agreement to provide office space and associated services to Company A for one year. As part of the agreement, Company A may use two specific offices on the premises on an exclusive basis. It may also use two "hot-desks" in an open area on a first-come-first served basis. Company A may also use a meeting room for client meetings and is provided with internet and telephone services. *The rental of the two specific offices will be an exempt supply for VAT purposes. All of the other services will be taxable at the standard 5% rate. ServiceCo will need to apportion the consideration payable between the exempt and taxable supplies, account for VAT at 5% on the taxable element of the consideration and issue a tax invoice to Company A showing the taxable and exempt supplies.*

Rental of a function room, hall or similar facility

The rental of function rooms, halls or similar facilities for parties, weddings and similar events will not be an exempt supply of real estate. If the person supplying the facility is a taxable person, the rent of the room, hall or other facility will be taxable at the standard rate.

Where a function room, hall or similar facility is rented out to an operator on a long-term basis with the intention for that operator to hire the premises to other persons for parties, weddings, etc., the rental of the facility to the operator will be an exempt supply. The hiring of the premises by the operator will be taxable at 5% if the operator is a taxable person.

Other charges in addition to the rent

The VAT liability of any charges in addition to the rent of real estate will be taxable at the standard rate. This includes charges for management services, utilities, telecommunications, internet and television, among others.

If these services are provided as part of the rent charged (e.g., management services) and no separate charge is made, they will not be a separate supply for VAT purposes.

Providing permission to affix equipment or signage to land or buildings

The provision of permission to affix equipment or signage to land or buildings will not be regarded as an exempt supply of real estate for VAT purposes. Such a supply will be taxable at 5% if the person providing the permission is a taxable person. When there is a supply of an area of real estate for placing telecommunication towers, advertising boards and all other similar fixtures, this will be considered as the grant over a right to use such area of the real estate for VAT purposes. This will be taxable at the standard rate and this will be the case even when the fixture is permanently attached to the real estate.

The real estate area may include a terrace, rooftop, garden and all other similar locations.

Example
Company A, which is registered for VAT, enters into a contract with TelCo under which TelCo may affix a telecommunications antenna on the roof of Company A's office building. The agreement is for a period of ten years. *Company A should account for VAT at 5% on the consideration payable by TelCo for allowing it to affix the antenna.*

Provision of permission to use a specific area – vending machines, shelf space etc.

The provision of permission to use a specific area will not be regarded as an exempt supply of real estate for VAT purposes. Examples include allowing another party to:

- Place a vending machine or fridge/freezer in a particular location in return for a payment
- Use of shelf space (e.g. in a shop or supermarket) to display their goods for sale

Such supplies will be taxable at 5% if the person providing the permission is a taxable person, even where the space provided is for the exclusive use of the customer.

Example

SupermarketCo charges Company A for the use of shelf space in its supermarket in order for Company A to sell its confectionery. Under the agree terms of the contract, Company A will pay SupermarketCo a fixed amount per month for use of the shelf space.

The supply of the shelf space by SupermarketCo to Company A will be taxable at the standard rate of 5%.

Example

OfficeCo grants permission to Company B to install a vending machine on its premises for a fixed annual sum. The goods in the vending machine are owned by Company B and all sales proceeds from the vending machine belong to Company B. Both OfficeCo and Company B are registered for VAT in Bahrain.

The fixed annual sum charged by OfficeCo to Company B for the right to place the vending machine in OfficeCo's premises will be taxable at the standard rate of 5%.

Short-term retail and promotional stands rented for a period of less than one month

The provision of space for retail or promotional stands (e.g. at a shopping mall, retail or entertainment area) for a period of less than one month will not be regarded as an exempt supply for VAT purposes. Such a supply will be taxable at 5% if the person providing the space is a taxable person.

The provision of space for retail or promotional stands for a period of one month or more will be regarded as an exempt supply of real estate for VAT purposes.

Mooring rights for boats and ships and rental of jetties

The right to moor a boat or ship is not regarded as an exempt supply of real estate, regardless of whether such a right is granted on an exclusive or non-exclusive basis. Such a supply will be taxable if made by a taxable person. (Fees for mooring services where they are directly or indirectly associated with a supply of international transportation of passengers or goods may be zero-rated.[5]) The rental of a jetty which is a permanent and fixed (and non-floating) structure made from a material such as concrete is exempt on the basis that it is a supply of real estate.

[5] See Article 68(C) of the Executive Regulations

4.4. Serviced accommodation

The provision of serviced accommodation is taxable at the standard rate. Serviced accommodation involves additional services being provided to tenants as part of their rental agreement and these services are not common to all residential accommodation. In addition, the services will be included as part of the charge made to the tenant and are not charged for separately.

Serviced accommodation will generally be in competition with hotels and will typically charge based on a nightly or weekly rate. Such accommodation will also normally be furnished and will be stocked with flatware, cutlery, bedlinen and towels. As such, these characteristics should be considered when considering whether a supply is of serviced accommodation.

An agreement for accommodation will not be treated as serviced accommodation where:

- There is a rental agreement for a period of one year or more; and
- The accommodation does not fall under the definition of hotel accommodation as per section 4.3 above (even where the rental period is for one year or more).

Although the nature of the accommodation provided will need to be considered on a case by case basis, the provision of additional services set out below would indicate that serviced accommodation is being provided (taxable at the standard rate) rather than a residential apartment (exempt from VAT):

- Regular cleaning services
- Provision of internet / telecommunications services
- Laundry services

The following services would not on their own indicate that the accommodation is serviced accommodation:

- Cleaning of communal areas
- Security
- Maintenance of the common areas in a building

If the additional services are optional and provided for an additional charge to the rent, the additional services will be a separate supply for VAT purposes and will be taxable at the standard rate.

Example 1
PropCo owns a number of furnished residential apartments. Mohamed enters into an agreement with PropCo to lease a residential apartment for three months. As part of the rent, Mohamed will receive a weekly cleaning service and high-speed internet. *As a result of the additional services included in the rental agreement, the arrangement will be considered as the supply of a serviced apartment for VAT purposes. PropCo's supply will therefore be taxable at the standard 5% rate.*

Example 2
Fatima enters into an agreement with PropCo to lease a residential apartment for 18 months with a weekly cleaning service and internet provided as part of the rent. As the rental period is for more than 12 months, this will be a supply of residential real estate. PropCo's supply will therefore be exempt from VAT.

Example 3
VillaCo owns a number of furnished villas that are rented to individuals. In addition to the rent, VillaCo charges separately for optional services such as a weekly cleaning service, high-speed internet and laundry services. *In this case, the rental of the villa will be a supply of residential real estate and therefore exempt from VAT. The VAT liability of the additional services that are charged for separately will need to be considered on a case-by-case basis. In this case, the weekly cleaning service, high-speed internet and laundry services will be taxable at the standard rate.*

4.5. Labour accommodation

What is labour accommodation?

Labour accommodation is a facility where labourers are housed by their employers. Some facilities may provide residents with services in addition to housing such as food, cleaning, laundry and transportation.

Some employers provide labour accommodation and related services at facilities owned and operated by them. Others will engage a third-party supplier or suppliers to provide the accommodation and related services.

VAT considerations

For labour accommodation, the following will need to be considered:

- When the labour accommodation is supplied to the employer by a third party or parties, these parties need to consider whether the supply is an exempt supply of real estate or a taxable supply of services or a mixed supply of exempt real estate and taxable services. If VAT applies, the employer needs to consider whether it can recover this VAT as input tax.

  Labour accommodation will need to be assessed on a case by case basis to determine whether it is a supply of residential real estate (and is therefore exempt from VAT), or whether it is a different form of supply (and taxable at the standard 5% rate).

  If the labour accommodation is a supply of residential real estate and exempt from VAT, any input tax on costs relating to the labour accommodation will not be recoverable.
- Where the costs are borne directly by the employer and no charge is made to the employees, the employer needs to consider whether it is making a deemed supply to its employees.

Where the labour accommodation is a different form of supply and taxable at the standard rate, the deemed supply provisions will need to be considered to determine the input and output tax implications of the supply.

VAT on the provision of labour accommodation

The provision of labour accommodation for consideration will be treated as an exempt supply of real estate if all of the following criteria are met:

a. The building is fixed to the ground and cannot be moved without being damaged

b. The building is the laborer's principal place of residence in Bahrain

c. The laborer is provided with a designed space that is exclusively for his own use (e.g., his own room or bed that he will sleep in each night) and this area is not changed on a frequent basis

If all of the above criteria are not met, the supply will be taxable at the standard rate.

Where an exempt supply of residential accommodation is made, and additional services are charged for separately and in addition to the charge for the accommodation, the charge for such additional services will be taxable at the standard rate.

Example
A construction company in Bahrain provides residential accommodation to its construction workers at no cost. The accommodation is provided on a long-term basis (always for a period of more than one year) and is the main place of residence for the employees in Bahrain. *The residential accommodation provides each employee with his own bed and space in the room for his belongings. A separate charge is made for meals, internet and laundry services.* *The supply of the accommodation by the construction company will meet the conditions of residential real estate and will therefore be exempt from VAT. The VAT liability of the additional services that are charged for separately will need to be considered on a case-by-case basis. In this case, the meals, internet, use of the telephone and laundry services will be taxable at the standard rate.*

Implications for the employer

Any VAT on expenses incurred by an employer on labour accommodation provided for free or at less than market value will not be recoverable. As this VAT is not recoverable, the employer is not required to treat the provision of the accommodation (if taxable) as a deemed supply.

Accommodation may be provided to employees to allow them to better perform their role or execute their duties. Examples include:

- Accommodation provided to employees who work on an oil rig or vessel for the duration of the working period or shift
- Accommodation located in a remote area which is provided for the duration of a specific project, which is adjacent to or at the place where the employees will carry out their duties

and where it would not be feasible to transport the employees from an inhabited area to the remote place of work on a daily basis

- Temporary accommodation for a short period (e.g., a number of days) provided immediately prior to an employee being deployed to a remote or offshore location or immediately after such deployment to enable the employee to be efficiently transported to or from his place of work

VAT costs incurred by an employer in providing the above accommodation and related services (e.g., utilities), but excluding food, entertainment and internet, will be regarded as a business expense and can be recovered and the employer is not required to recognise a deemed supply to its employee.

Example 1
An oil company provides short-term accommodation to its employees who work on an offshore oil rig. Employees need to be stationed at a remote location for one or two nights before deployment in order to be brought to the oil rig. VAT on costs relating to their accommodation at this location before deployment will be deductible and no deemed supply will arise.

Example 2
Company A is constructing a solar plant over one year in a remote location in the desert two hours' drive south of Manama. It constructs housing for employees for the duration of the construction project. VAT costs incurred on the provision of the housing will be deductible as it would not be feasible for employees to drive two hours to and from work every day. No deemed supply arises.

4.6. Storage and warehousing

The VAT treatment of the provision of storage and warehousing facilities will depend on a number of factors, including whether the customer has the exclusive right to use the storage / warehousing space and whether there are any ancillary services provided.

If storage or warehousing facilities involve the rental of a designated space on an exclusive basis to a customer to store goods, where the customer has the right to access the space, this will be an exempt supply of real estate. Ancillary services, such as the provision of security, lighting, ventilation etc., will be exempt unless a separate fee is charged on top of the rental charge.

Where the storage or warehousing facilities are provided as a service whereby the goods to be stored (e.g., files) are delivered to a front desk and are then stored in a place at the discretion of the storage provider, this service will not be seen as an exempt supply of real estate and will be standard rated if provided by a taxable person.

The provision of safety deposit boxes will not be an exempt supply of real estate. VAT at the standard 5% rate will apply if provided by a taxable person.

Example 1
Amina rents a safety deposit box from Bank A. This will not be an exempt supply of real estate. SecureCo should charge VAT at the standard rate on the provision of the safety deposit box to Amina.

Example 2
Company A owns a warehouse and has surplus space. It allows Company B to store some equipment in the warehouse. Company B does not have the right to use a designated area in the warehouse on an exclusive basis, and can only access the warehouse when it is in use by Company A. This will not be an exempt supply of real estate and will be taxable at 5% if Company A is a taxable person.

4.7. Real estate related services

Overview

Real estate related services are those services which are directly connected with the real estate. These include, but are not limited to, the following:

- Services by real estate experts or agents
- Services which involve the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work
- Accommodation services
- Services by auctioneers, architects, interior designers, surveyors, engineers and others involved in matters relating to real estate

The place of supply of real estate related services will be where the real estate is located. If the real estate is in Bahrain, Bahrain VAT at the standard rate of 5% will apply, unless the supply is specifically exempt from VAT or zero-rated.

Place of supply of real estate related services

The place of supply of real estate related services will be where the real estate is located. Therefore, the place of supply of such services carried out in relation to real estate in Bahrain will be Bahrain. A resident taxable person making a supply of such services will account for VAT at 5% on the provision of these services.

If a non-resident person makes a supply of these services in relation to Bahrain real estate to a Bahraini taxable person, that taxable person will need to self-account for VAT at 5% under the reverse charge mechanism (see the VAT General Guide for further detail). Where the recipient is not a taxable person, the non-resident will need to register for VAT in Bahrain and account for VAT on the provision of the service.

Insuring real estate or a building is not considered as a service relating to real estate. Therefore, the place of supply for such insurance will follow the normal place of supply rules set out in the VAT General Guide.

Example 1
Company A is established in Bahrain and is registered for VAT. It provides architectural services relating to a property in Bahrain. The place of supply will be Bahrain (i.e., where the real estate is located) and Bahrain VAT at the standard rate of 5% will need to be charged.

Example 2
Continuing the previous example, Company A provides architectural services relating to a property in Italy. The place of supply will be Italy (i.e., where the real estate is located) and the services will be outside the scope of Bahrain VAT.

4.8. Tax due date

Why is the tax due date rule important?

There will be no tax due on exempt supplies of real estate. It may, however, be important to determine the tax due date for an exempt sale or rental of real estate because a taxable person must issue a tax invoice even when it makes an exempt supply.

If a taxable person makes both taxable and exempt supplies, the tax due date will also be important in determining the value of exempt supplies when computing deductible input tax on residual expenses (see the "Apportionment of input tax on residual expenses" section of the VAT General Guide).

How is the tax due date rule determined?

The tax due date for the sale or lease of real estate depends on whether the supply is considered as a supply of goods or a supply of services.

Tax due date for a supply of goods

Under the VAT Law, a supply relating to the grant of rights in rem deriving from ownership giving the right to use real estate is considered as a supply of goods.[6] As such, the transfer of freehold title in a property for consideration is a supply of goods, as the recipient obtains "full" ownership, having the right to dispose of that property.

Furthermore, any other transaction which has the effect of giving the recipient the rights of full ownership in real estate or equivalent long-term rights, or which provides the option to acquire or obtain full ownership of the real estate will also be a supply of goods for VAT purposes.

A finance lease (or any lease-to-own arrangement), where the lessee is given the option to obtain full ownership at a later point, is considered as a supply of goods.

The general rules relating to the tax due date for a supply of goods, as set out in the VAT General Guide, will need to be considered to determine the tax due date.

[6] Article 5 of the VAT Law

In principle, for supplies of goods, the tax due date is the earliest of[7]:

a. The date of the supply of goods

b. The issue of a tax invoice for that supply

c. The receipt of a payment for that supply (to the extent of the amount received)

Example

Company A is registered for VAT and sells a commercial property in Bahrain to Company B. The sale takes place on 10 January 2019 and title to the property is transferred on the same date.

The tax due date for the transaction will be 10 January 2019 and the exempt supply should be recorded in the relevant tax period. A tax invoice should be issued and delivered to the customer by 15 February 2019 (i.e., the 15th of the month following that during which the supply took place).

Tax due date for a supply of services

If a supply of real estate is not considered as a supply of goods, it will be a supply of services. This will include rental of real estate by way of lease or licence of any property. In a real estate context, a supply of services will include all agreements which allow a person to occupy or use real estate without transfer of ownership or equivalent long-term rights in a property.

The general rules relating to the tax due date for a supply of services, as set out in the VAT General Guide, will need to be considered to determine the tax due date.

The tax due date for a supply of services will be the earliest of the following:

a. The date of issue of a tax invoice or equivalent document

b. The due date of payment of the amount specified in the tax invoice

c. The date of receipt of payment

When twelve months have passed from the start of the contract or from the previous tax due date (as determined above), a tax due date will be triggered at that twelve-month point.

Typically, when there is a supply of services, some supplies will be considered as "one-off" services, which will follow the general tax due date rules set out above, whereas other services will be considered as continuous supplies (for example, rentals and lease agreements) and these supplies will follow a special rule to determine the tax due date. Please see the "Tax due date" section in the VAT General Guide for further information on this.

[7] Article 12(A) of the VAT Law

Example
Company A is registered for VAT and leases a commercial property in Bahrain to Company B. Under the contract, the lease will be for a 12 month period from 1 February 2019 to 31 January 2020. *The tax due date for the transaction will be the earliest date of a tax invoice being issued, the due date for payment and the date of receipt of payment.* *When payment is due in instalments, the due date of the instalments and date of receipt of the instalments will need to be considered.* *Based on the above, if monthly payments are received on the first day of each month and a tax invoice is raised on the tenth of each month for the payment received, the tax due date will be the first of each month.*

Transitional rules

If a supply of goods or services relating to real estate takes place after or spans the effective date of VAT (i.e., 1 January 2019), a taxable person will need to determine the value of the supply after 1 January 2019 and raise a tax invoice for the exempt supply.

Example
Company A is registered for VAT and leased a commercial property in Bahrain to Company B on 1 September 2018. The lease was for a 12 month period from 1 September 2018 to 31 August 2019, and full payment for the lease was made on 1 September 2018. *As eight months of the lease fall after the VAT implementation date (i.e., 1 January 2019), a tax invoice should be raised for the exempt supply from 1 January to 31 August 2019.*

4.9. Transfer of a going concern

The "Transfer of a going concern" section of the VAT General Guide contains details of the provisions relating to transfers of a going concern (surrender of an economic activity). The transfer of a going concern, with or without consideration, does not fall within the scope of VAT if certain conditions are met.

If a transaction involves real estate (e.g., the sale of the freehold interest in a building with tenants in situ) and all of the conditions for the transaction to be a transfer of a going concern for VAT purposes are met (as outlined in the VAT General Guide), the transaction will be outside the scope of VAT.

If the relevant conditions are not met, the VAT implications of the transaction will need to be considered as it may involve both taxable and exempt supplies.

Example 1
Company A owns the freehold interest in an office block which is empty and vacant. Company A sells its freehold interest in the office block to Company B. *The sale of the freehold interest in the office block will be exempt from VAT as it is a sale of real estate.*

Example 2

Company A owns the freehold interest in an office block which has a number of tenants in situ. Company A sells the office block to Company B, together with the tenancy agreements and all other operational contracts (for example, security and service charges) that are currently in place.

On the sale of the office block, it also assigns the tenancy agreements and all other operational contracts to Company B.

Company A is a taxable person and, on the basis that the conditions for a transfer of a going concern are met, this transaction will be outside the scope of VAT.

Example 3

Company A, a taxable person, conducts a retail business from a property that it owns. Company A sells its entire business, including the property, to Company B, another taxable person. The transfer can be treated as the transfer of a going concern (assuming the relevant conditions are otherwise met) and the transfer of the property as part of the sale of the business to Company B will not be an exempt supply, but will be outside the scope of VAT.

4.10. Record keeping

The "Record keeping" section of the VAT General Guide sets out the rules requiring taxable persons to maintain certain records for VAT purposes. Documents related to real estate must be retained by both parties for a period of 15 years from the end of the tax period to which they relate.

Under the capital assets scheme (see the "Change in use - Capital assets scheme" section of the VAT General Guide), where the real estate is owned by a taxable person as part of its economic activity, records relating to that real estate must be retained for a period of five years from the end of the tax period in which the adjustment period for such assets ends.

5. Construction

5.1. Definition of construction

Construction generally means building something such as a house, office, factory, warehouse, road, bridge etc. As well as building, construction may involve demolition, refurbishment/reconstruction of existing buildings or structures and site clearance activities. Construction involves providing a building service but may also involve providing goods as part of such a service.

5.2. VAT treatment

Construction services supplied in Bahrain are regarded as taxable supplies if they are carried out by a taxable person. This is irrespective of the type of building (e.g., residential, commercial, industrial building) being worked on or the type of other construction work (e.g., civil engineering works).

Construction services for new buildings will be zero-rated for VAT purposes. See section 5.3 below for further details on what is meant by a construction service in relation to new buildings, the extent of the zero-rating and how to determine whether the zero-rate applies to a given construction service.

Construction services that are not provided in relation to new buildings do not qualify for the zero-rating and will be taxable at the standard rate.

5.3. Construction of new buildings

5.3.1. Introduction

The following will be zero-rated:[8]

a. The supply of construction services in relation to new buildings carried out by a taxable person; and

b. Goods supplied by a person making a supply of construction services, in the course of providing construction services for a new building.

All other taxable supplies of construction services or supplies of goods used for construction will be subject to the 5% VAT rate.

5.3.2. Definition of a building

The Executive Regulations define a "building" as a residential, commercial or industrial building. Generally, a building will be an immovable structure which has walls and a roof. Structures such as bridges, elevated roads and flyovers will not be regarded as buildings for

[8] Article 76(A) of the Executive Regulations

the purposes of the zero-rate. Further, reclaimed land will not be treated as a building for zero-rating purposes.

A pre-fabricated structure will not be treated as a building. However, a structure that incorporates pre-fabricated components such as pre-fabricated concrete or steel components, bathroom pods and modular walls (exterior and interior) will be regarded as a building eligible for zero-rating provided the end product is not substantially built or assembled away from where it will be located.

The following (non-exhaustive) examples are set out in the Executive Regulations:[9]

- A dwelling (such as a villa, house, apartment)
- Offices
- Factories
- Workshops
- Retail stores
- Multi-storey car parks
- Power stations
- Oil refineries
- Liquefied natural gas stations
- Oil fields

5.3.3. New building

For the purpose of Article 76 of the Executive Regulations, a building will be regarded as “new” if it is built from scratch on a green-field or brown-field site. If an existing structure is demolished prior to construction, this will not impact the building being regarded as new, although the costs relating to demolishing the existing structure will not be zero-rated.

An existing building that is being renovated or refurbished will not be regarded as a new building, even if the renovation or refurbishment works are substantial. This will still be the case when most of the value of the newly renovated/refurbished building derives from the upgrades.

Where an existing building is demolished, but one existing façade of that building is retained and used as part of the new building, it will be regarded as a new building for the purposes of Article 76 of the Executive Regulations. The same will apply when a new building is constructed adjacent to an existing building and the new and existing buildings share one or more existing walls.

[9] Article 76(B) of the Executive Regulations

Any boundary walls on land on which a new building is being constructed will also be considered as part of the building for the purposes of Article 76 of the Executive Regulations.

An extension to an existing building will qualify as a new building provided the extension adds an additional room or functional space to the building. This will be the case regardless of where the extension is added (e.g., addition of a new room on the side of a house, addition of one or more storeys to an existing building, adding additional capacity to a basement or underground facility by extending down or sideways).

When a room or part of an existing building is demolished and replaced by a new structure that does not add any additional capacity to the building in terms of space or function, the new structure will not be regarded as a new building for the purposes of Article 76.

If construction works involve the repair and upgrade of an existing building together with the addition of a new extension, only the new extension will be regarded as a new building.

5.3.4. Services qualifying for the zero-rate

What services qualify for the zero-rate?

Supplies of construction services which qualify for the zero-rate when supplied in relation to a new building include the following:

- Construction works
- Site clearance services
- A new extension to an existing building (see section 5.3.3 of this Guide)
- Services provided by engineers and surveyors and similar services of a supervisory nature

Engineering, Procurement and Construction (EPC) contracts and Lump Sum Turnkey contracts will be regarded as contracts for the provision of construction services. When a construction contract involves the provision of materials, the contract will be seen as one single contract for the provision of a construction service.

What are construction works?

For the purposes of the zero-rating, construction works are those works necessary to build a building from start to finish so that the building is habitable and fit for purpose. These works include:

- Excavation works for basements and underground car parks
- Digging and pouring foundations (including piling works)
- Pouring concrete for supporting columns and for floors
- Supply of ready-mix concrete. Such a supply will be treated as the provision of construction works regardless of whether the supplier has any role in pouring the concrete into the foundations or the structure of the building, or whether the supplier simply deposits it on site, e.g. in a container or vessel, for use in the building.

- Brickwork, building the roof of the building
- Insulation works, waterproofing
- The installation of windows

Work on the inside of the building also qualifies for the zero-rate, including construction of internal walls (concrete, stud partition etc.) and ceilings, installation of doors (including frames and architraves) and skirting boards.

Civil engineering works necessary for the completion of a new building will be regarded as construction works qualifying for the zero-rate. Such works include:

- The installation of sewerage systems on the land on which the new building is to be constructed. Any work carried out on adjacent or nearby land, even if this is needed to connect such systems of the new building to public services, will not qualify for zero-rating.
- The installation of piping (e.g., for water or sewerage) on the land on which the new building is to be constructed. Likewise, the installation on adjacent or nearby land will not qualify for zero-rating.
- The laying of roads and paths necessary for the proper use and enjoyment of the building and car parking (including surface parking) for use by the occupants of the building and visitors.
  - Such roads are those needed to access the building from a public road or an adjoining site and to access parking.
  - Paths are those needed to access the building from a public road or an adjoining site, to move between buildings and facilities on the land and to move from outdoor car parking to a building on the site. The laying of paths for decorative or recreational purposes (e.g., constructed as part of gardens or landscaping) will not qualify for zero-rating.
- Services to connect a new building to telecommunications services (such as telephone, internet and television).
- Services to install solar energy panels and related equipment designed to produce electricity and hot water for the new building.

The following will also be considered as construction works which will qualify for the zero-rate, provided they are supplied as part of the construction of a new building:

- Plumbing works (including but not limited to installation of piping, bathroom fittings and sanitary ware)
- Plastering and installation of insulation, drywall and plasterboard
- Electrical work including cabling and installation of light fixtures
- Tiling and fitting wooden flooring
- Installation of windows
- Painting and decorating

- Installation of HVAC equipment, elevators and escalators
- Installation of wiring (including power cables, computer cabling, telephone and television cabling) to the extent that this is incorporated into the building and cannot be removed without damage
- Installation of burglar alarms and security monitoring equipment when this is fitted and wired to the property and cannot be removed without damage
- Installation of fire alarms, fire extinguishers, smoke detectors and sprinkler systems to the extent that they are required by Law or fire regulations
- Installation of fitted kitchens
- Installation of guttering
- Snagging works

What services do not qualify for zero-rating?

The Executive Regulations exclude the following services from the zero-rate treatment:

- Demolition services on land on which a new building will be constructed
- Architects and interior design fees. This includes any similar service of designing any aspect of the building, provision of technical or similar drawings etc., irrespective of whether these are provided by a qualified or licensed architect or interior designer
- Restoration works on an existing building, including refurbishment and redevelopment works on an existing structure, regardless of the extent of such works.

A service of installing goods that do not qualify for zero-rating (see section 5.3.5 of this Guide below), even if supplied as part of a construction service, will not itself qualify for zero-rating. This applies even if the service is provided as part of a larger construction contract. Examples of services that do not qualify are those relating to:

- The installation or assembly of furniture that is not affixed to the building
- Landscaping
- The construction of swimming pools (including any goods provided in relation to this construction), whether on the land adjacent to the building or incorporated into the building (e.g., on the roof or in a basement)
- The installation of decorative lighting, carpets or movable partitions
- The installation or hanging of artwork

Hiring of equipment (e.g., cranes, excavators, bulldozers, loaders, compressors, power generators etc.) to be used by a person supplying construction services in relation to a new building will not qualify for zero-rating.

© Kingdom of Bahrain | National Bureau for Revenue

5.3.5. Goods qualifying for the zero-rate

What goods will qualify?

Goods supplied by a taxable person as part of the provision of construction services relating to a new building will also be zero-rated.[10] The goods must be used, installed or incorporated into the building or the land on which the building is situated. Such goods include, but are not limited to, the following:

- Building materials
  - Bricks and blocks (concrete, cinder, glass)
  - Concrete and cement
  - Ready-mix concrete
  - Rebar
  - Structural steel
  - External cladding
  - Mortar, grouting, glue
  - Metal and wooden joists
  - Insulating and damp proofing materials
  - Piping and plumbing fixtures and equipment
  - Wiring
  - Wood (e.g., for door frames, architraves, skirting, stud partitioning, joists, rafters)
  - Doors (wood, glass or other material) and door hardware
  - Electrical items such as electrical boards, circuit breakers, sockets, switches
  - Plasterboard, gypsum board,
  - Tiling (ceramic, marble and stone), wood flooring
  - Window frames and window glass, curtain wall glass, skylights
  - Window sills
  - Cement render, paint, wallpaper, stucco
- Fixtures and equipment to the extent that such fixtures and equipment are permanently affixed to the building and cannot be removed without causing damage to the building or the plant and equipment. Such fixtures and equipment include:
  - HVAC systems
  - Elevator systems, escalators

[10] Article 76(E) of the Bahrain Executive Regulations

  - Security systems, including alarms and security cameras
  - Raised floors and dropped ceilings
  - Sanitary ware including toilets, urinals, wash basins, sinks, toilet seats, taps, but excluding soap dispensers, external hand dryers and napkin dispensers
  - Fitted kitchen cabinets (including those used as small kitchenette areas for staff), but excluding any electrical or gas appliances, even where these are integrated into the kitchen units
- Goods supplied to conduct civil engineering works necessary for the development of the building including:
  - Sewerage systems
  - Piping
  - Roads and paths necessary for the proper use and enjoyment of the building
  - Car parking for use by the occupants of the building and visitors
- Goods supplied to connect the building to a water supply and telecommunications services
- Photovoltaic cells and related equipment designed to produce electricity and hot water for the building.

Only those goods that are used in the building itself or on the land on which the building is being constructed will qualify for the zero-rate.

What goods will not qualify?

Fixtures and fittings not permanently attached to a building and which can be removed without damaging the building or the goods will not be zero-rated. For this purpose, the damage caused to the building by removing the fixtures and fittings must be material. If only minor damage is caused to the building or goods when removing the fixtures and fittings (e.g., small screw holes left after removing the items, a small number of cracked or broken tiles, scratches to woodwork), this will not be considered as having caused damage for the purpose of this test.

The Executive Regulations[11] set out a non-exhaustive list of fixtures and fittings that will not qualify as zero-rated goods in the course of the construction of a new building, including:

- Furniture that is not affixed to the building (e.g., tables, chairs, desks)
- Goods supplied for landscaping purposes
- Decorative lighting (including chandeliers, art-glass light fittings)
- Paintings, murals and other artwork
- Carpets (including carpet tiles)
- Moveable partitions (even where these will not actually be moved in practice)

[11] Article 76(F) of the Executive Regulations

In addition to the above, the following will not qualify for zero-rating:

- Fitted wardrobes or storage units
- Curtain poles and rails and window blinds
- Elaborate vanity units and wall cabinets in bathrooms, bedrooms or dressing rooms
- Laboratory work benches
- Entertainment systems and built in speakers for entertainment
- Towel rails, soap dispensers, toilet roll holders,
- Hand dryers and paper towel dispensers affixed to the wall
- Shelving

Goods used to build swimming pools, saunas and steam rooms will also not qualify for zero-rating. Further, goods used during the provision of land reclamation services will not qualify for zero-rating.

Example 1

ABC Company signs a contract with a customer for the construction of a new villa. In order to conduct such services, ABC provides its engineering expertise and subcontracts for the provision of pipes and cables. The supply of engineering expertise is zero-rated as well as the supply of pipes and cables.

Once finalized, ABC signs a new contract with the future tenant to offer interior design as well as certain specific furniture (sofas). The interior design is not considered as a construction service and would be taxable at the standard rate of 5%. Additionally, the furniture provided is not considered as "attached" to the building and can be removed without damaging the property. As a result, such supplies are taxable at the standard rate.

Example 2

ABC Company purchases buildings in order to demolish them and construct new premises on the land. The service of demolishing the existing buildings is taxable at the standard rate, whereas the construction of the new premises is zero-rated.

Goods supplied other than as part of the provision of construction services, even if they are used as part of constructing a new building, will not qualify for zero-rating. Therefore, even the supply of bricks by a builders' merchant to a contracting company will be subject to VAT at 5%, even if those bricks are used by the contractor to build a new building.

The goods supplied as part of the provision of construction services will qualify for zero-rating if such goods are necessary for carrying out the construction services for which they were engaged.

5.4. The supply of goods only

When a taxable person supplies goods to a person who provides construction services in relation to a new building, but does not itself provide any construction services, the supply of goods will be taxable at the standard rate.

Where any items included on the list of basic foods which may be zero-rated under certain circumstances (see the "Supply of basic food items" section of the VAT General Guide) are supplied to be used for the purposes of construction, these will be taxable at the standard rate. This includes sweet water and ice.

5.5. Multiple contractors and subcontractors

Multiple contractors

Where a person engages multiple contractors to construct a new building, the zero-rate should apply to the services provided by such contractors provided they can be classified as "construction services" as defined at section 5.3.4 above. Goods supplied by such contractors in the course of the provision of the construction services as defined at section 5.3.5 above will also be zero-rated, provided such goods are necessary for carrying out the construction services for which they were engaged.

Example
Mohammed owns land and wishes to construct a new villa on this land. He hires: • *Company A to lay the foundations and construct the walls and roof* • *Company B to build and complete the internal walls* • *Company C to carry out the plumbing and electrical work* • *Company D to complete all remaining work* *All four contractors (A, B, C and D) are taxable persons for VAT purposes and should zero-rate the construction services provided to Mohammed, together with the goods provided to Mohammed which were necessary to complete the work for which they were contracted.* *Company C carries out the plumbing and electrical work and, as part of its work, supplies the necessary goods. In addition, Company C sells bricks to Mohammed which are used by Company A to reconstruct the walls of the villa.* *Company C should zero-rate the construction services provided to Mohammed (i.e., the plumbing and electrical work), together with the goods provided to Mohammed which were necessary to complete the work for which they were contracted (i.e., piping, wiring, sinks, bathroom fittings etc.). However, Company C must apply VAT at 5% on the consideration for the bricks supplied to Mohammed, as these were not used by Company C to carry out the constriction works it was contracted to perform.* *If provided together with construction services for a new building, Company A applies the zero-rate on the supply of the bricks to Mohammed, even when VAT was charge on the bricks from Company C.*

Subcontractors

Where a contractor that is supplying construction services in relation to a new building subcontracts part of the work to another person, that subcontractor may account for VAT at the zero-rate on supplies made to the contractor that engaged him, provided such supplies are construction services as defined at section 5.3.4 above. Goods supplied by such subcontractors in the course of the provision of the construction services as defined at section 5.3.5 will also be zero-rated, provided such goods are necessary for carrying out the construction services for which they were engaged.

5.6. Certificate from main contractor or property owner

Requirement for certificate

In order to apply the zero-rate on construction services and associated goods in relation to a new building, the supplier must obtain a certificate (or a certified copy of the original certificate) that the building meets the criteria to be a new building for the purposes of Article 76 of the VAT Regulations. This certificate should be prepared by the main contractor or the property owner and should contain the following information:

a. The address of the land on which the building will be or is being constructed. This should be the full address (including block number, street number etc.), not a post office address or “in-care of” address. When this is not available, a map should be attached clearly marking the land and its location.

b. The name and address of the registered owner of the land. Again, the address should be a full address, not simply a post office box or “in-care of” address.

c. A description of the building to be constructed. This should state the type (residential, commercial, industrial etc.), the number of floors and the total area of the building.

d. The actual or expected start and end dates for the development.

e. The name, address and VAT Account Number of the main contractor. Where there is no main contractor and the property owner will employ multiple contractors directly, this should be stated instead. In such a case, the property owner should state his VAT Account Number, if registered for VAT.

f. A certification statement stating that, to the best of the knowledge and belief of the issuer, the building is a new building for the purposes of Article 76 of the VAT Executive Regulations.

g. The date of issue of the certificate.

A copy of the building permit for the building should be attached to the certificate and certified as a true copy of the original building permit.

The certificate should be signed by an authorised representative of the main contractor or by the property owner as the case may be.

The certificate should not be seen as a guarantee to the subcontractor (or indeed any other party) that the building is, in fact, a new building for the purposes of Article 76 of the VAT Executive Regulations. It does not remove the obligation on a subcontractor to determine, in accordance with the VAT Law and its Executive Regulations, the appropriate VAT rate on construction services and related goods (if any) provided to any party.

The certificate is a document provided by the main contractor or the land owner. It will not be authenticated or approved by the NBR. Furthermore, the NBR will not accept requests to validate that a certificate is accurate or genuine.

Standard rate VAT applies in the absence of a certificate

Where a supplier of construction services (and associated goods) does not have a certificate from the main contractor or the property owner confirming that the building is new, the supplier should apply VAT at the standard rate of 5% on all supplies regardless of whether or not the building is new.

Where the main contractor makes a taxable supply to the owner which relates to the construction of a new building, the main contractor should obtain the certificate from the owner. If the owner does not provide a certificate, the main contractor can prepare a certificate itself. The main contractor must have a certificate from the owner or prepare one itself in order to zero-rate a supply made to the owner in relation to the construction of a new building. The main contractor may need to obtain the building permit from the property owner to attach to the certificate.

A certificate is obtained after a tax invoice has been issued

If a certificate from the main contractor or property owner has not been received until after a tax invoice has issued and the supplier has accounted for VAT at the standard rate on that tax invoice, the supplier may cancel and reissue the original tax invoice, provided the recipient of the supply has not claimed input tax in respect of the VAT shown on the invoice on its tax return.

Where the recipient of the supply has claimed the input tax shown on the original tax invoice in his tax return, the subcontractor may not cancel and reissue the original tax invoice.

Example 1
A subcontractor entered into an agreement on 1 April 2019 to supply construction services relating to a new office building in Manama. As it had not received a certificate from the main contractor or property owner that the building is new, It applied VAT at the standard rate on invoices issued before 1 June 2019. On 1 June 2019, the main contractor issued a certificate to the subcontractor. *The main contractor did not report the input tax relating to the supplies made by the subcontractor from 1 April 2019 to 31 May 2019 on its VAT return, the subcontractor may cancel those tax invoices and reissue them showing the zero-rate of VAT.*

Example 2

A subcontractor entered into an agreement on 15 March 2019 to supply construction services in relation to a new residential building in Saar and applied VAT at the standard rate of 5% on tax invoices relating to supplies between 15 March to 31 March 2019 as it had not received a certificate from the main contractor or property owner confirming the building is new. On 1 May 2019, the property owner issued such a certificate.

The main contractor reported the input tax on supplies received from the subcontractor between 15 March to 31 March 2019 in its tax return for the first quarter of 2019. Therefore, the subcontractor may not cancel and reissue the tax invoices in respect of supplies between 15 March 2019 and 31 March 2019.

5.7. Apportionment of consideration

General

If only part of a contract qualifies for zero-rating, the supplier must apportion the consideration to determine the value of the supply that will be zero-rated and that which will be taxable at the standard rate. A fair and reasonable apportionment should be used and the basis of the apportionment method should be documented by the supplier.

Example 1

Company A enters into a contract with Mohammed for the construction of a new villa. As part of the contract, Company A will demolish the existing building on the site and also provide architectural services and interior design works.

Company A should zero-rate the construction services provided to Mohammed, but will need to charge VAT at the standard rate of 5% on the services relating to demolishing the existing building, the architectural services and interior design works.

In determining the value of the supplies that are zero-rated and those that are taxable at the standard rate, Company A should use the market value of the services and document this for future reference or tax audits.

Example 2

Company A enters into a contract with Company B (a hotel chain) for the construction of a new hotel. As part of the contract, Company A will construct the new hotel on an existing site which is currently bare land.

As part of the new hotel, Company A will construct a swimming pool, steam room and sauna. They will also provide landscaping works on the site.

Company A should zero-rate the construction services provided to Company B to the extent that the construction works fall under the zero-rating provisions. It will, however, need to charge VAT at the standard rate of 5% on the construction services relating to constructing the swimming pool, steam room and sauna, as well as the landscaping works.

In determining the value of the supplies that are zero-rated and those that are taxable at the standard rate, Company A should use the market value of the services and document this for future reference or tax audits.

Advance and instalment payments

It is common practice for a contractor to require an advance payment prior to starting work. Further, the balance of the consideration payable may be payable in instalments throughout the period of the construction works.

Where an advance payment is made or is due to a contractor providing construction services and goods in respect of a construction project for a new building and it is expected that not all of the consideration payable will qualify for the zero-rate, the contractor should apportion the amount of the advance payment between the zero-rate and the standard rate based on the expected split of the overall contract price between supplies subject to the zero-rate and those subject to the standard rate. The apportionment should be fair and reasonable and the basis for conducting the apportionment should be documented and retained for review by the NBR.

Where instalment payments refer to or are calculated by reference to specific goods and services supplied during a specified period, any apportionment of the amount of the instalment payment between supplies qualifying for the zero-rate and those taxable at the standard rate should be carried out based on the actual supplies made to which the instalment payment relates. Where instalment payments do not refer or are calculated by reference to specific goods and services supplied during a specified period, the apportionment of the instalment payment between supplies qualifying for the zero-rate and those taxable at the standard rate should, similarly to the position for advance payments discussed above, be based on the expected split of the overall contract price between supplies subject to the zero-rate and those subject to the standard rate. Again, the apportionment should be fair and reasonable and the basis for conducting the apportionment should be documented and retained for review by the NBR.

On completion of a construction contract involving advance and/or instalment payments, the supplier should ensure that the correct amount of VAT at the zero-rate and standard rate was charged based on the actual supplies made over the course of the entire contract. If necessary, the supplier should correct tax invoices issued and amend tax returns accordingly.

Extensions

Where an extension is being added to an existing building, certain components of the existing building may be replaced or upgraded during the works as a necessary part of the extension. Examples include electrical cabling or waste water / sewerage pipes to handle increased capacity and a replacement elevator (e.g. to service additional floors being constructed in the building). To the extent that these components are needed for, and are used as part of, the extension, a VAT registered supplier can charge VAT at the zero-rate on part of the related costs to the extent that these relate to construction services and goods supplied as part of the provision of such construction services as discussed at Sections 5.3.4 and 5.3.5 of this Guide.

The cost of removing or demolishing existing components of an existing building which will be upgraded or replaced as part of the extension will not qualify for zero-rating.

© Kingdom of Bahrain | National Bureau for Revenue

The cost of these components must be allocated on a fair and reasonable basis between their expected use in the existing building and their expected use in the new extension being built. Generally, the NBR will accept apportioning the relevant costs based on the existing floor area and the floor area of the new extension. However, the NBR reserves the right to apply another method of apportionment if using floor area to apportion the costs would result in a disproportionate amount of the costs being taxed at the zero-rate.

Example 1
Salman hires a ABC Co, a VAT registered construction company, to build an extension to his home. Currently, his home comprises two floors and the extension will add an additional two. The existing useable floor area of the home is 3,500 square meters. After the extension, the useable floor area will be 6,000 square meters. *As part of the extension, the existing sewerage and waste water pipes need to be upgraded as the two new floors will have a number of additional bathrooms. An elevator in the house will be replaced so it will be able to provide access to all four floors on completion of the extension. The extension works will necessarily involve the demolition of the existing roof and the construction of a new roof on top of the two new floors.* *A proportion of the construction costs and cost of associated goods relating to the upgrade of the piping, the installation of the new elevator and construction of the new roof will qualify for the zero-rate of VAT. The relevant costs can be apportioned based on the existing and projected useable floor area of the building, i.e. 2,500 / 6,000 x 100 = 41.67% will qualify for zero-rating.* *Any costs relating to removing the old piping and elevator and demolishing/removing the existing roof will be taxable at the standard 5% rate.*

Example 2
Continuing the previous example, the two new floors will only have one new bathroom. There is no requirement for additional sewerage or waste water capacity, but the pipes will be upgraded as they are old and need to be replaced. *All of the costs relating to upgrading and replacing the pipes will be taxable at the standard 5% rate as the costs are not necessary for the new extension.*

5.8. Use of real estate for a taxable person's own use

When a taxable person engages with a construction company for the construction of a new building that will be used for its own use, it may incur some VAT on costs, such as architects' fees, landscaping and the purchase of furniture and fittings that are not affixed or incorporated into the building.

Depending on the business activities for which the new building will be used by the taxable person, any VAT incurred on costs relating to the construction of a new building for a taxable person's own use will be recoverable depending on the taxable person's business activities.

When a taxable person will use the building for the purposes of fully taxable activities, it can recover the VAT on costs on the construction of the new building in full.

When a taxable person will use the building for the purposes of fully exempt activities, it cannot recover the VAT on costs on the construction of the new building.

In addition, when a taxable person will use the building for the purposes of both taxable and exempt activities, it can recover the VAT according to its normal apportionment method.

Example
FurnitureCo manufactures and sells household furniture in Bahrain and is registered for VAT. All of FurnitureCo's supplies are taxable at the standard rate. *As part of FurnitureCo's expansion plans, it constructs a new warehouse that will be used for storing furniture that it has manufactured. FurnitureCo incurs some VAT on costs relating to the construction of the warehouse.* *On the basis that FurnitureCo is a fully taxable business and the warehouse will be used for its own business purposes, it can recover the VAT it has incurred on costs relating to the construction of the warehouse.*

5.9. Snagging

In the construction industry, "snagging" generally refers to a process whereby a building is inspected to identify defects or quality issues associated with the construction. A construction contract may contain provisions whereby the customer may withhold a retention amount pending rectification of matters identified as part of the snagging process.

When the builder rectifies defects or quality issues on a snagging list at his cost, he will receive no additional consideration for this work. Hence, there is no further supply of construction services and the builder will not be required to account for VAT on the work undertaken by him to rectify the snags.

When the customer engages another supplier to correct the items on the snagging list or when the original builder does this work for additional consideration, this will be regarded as an additional supply of services subject to VAT at the relevant rate.

Example
Omar enters into an agreement with ConstructionCo for the construction of a new villa in Bahrain. On completion of the construction works and the snagging process, a number of defects in the property are identified in relation to the wiring and lighting in the villa. *Under the contract between the parties, these defects will be rectified by ConstructionCo for no additional charge. As such, there will be no further supply of construction services and ConstructionCo will not be required to account for VAT on the work undertaken by it to rectify the snags.*

5.10. Supplies made after the completion of a new building

Once a new building is complete, any further supplies of construction services and goods will not qualify for the zero-rate. Completion is determined by considering the factors relevant to the particular project including:

- When a certificate of completion is issued in accordance with the contract
- When the building is habitable or otherwise fit for the purpose for which it was built
- When the building is in accordance with approved plans and specifications
- When the building is finished within the scope of the planning approval (including any variations to such approval)

5.11. Tax due date

Why is the tax due date important?

It is important to determine the tax due date for construction services, even when such services qualify for the zero-rate. This is because the value of the supply of the services (even if zero-rated) must be declared in the tax return for the tax period during which the tax due date falls.

Furthermore, if a taxable person makes taxable and exempt supplies, the tax due date will be important in determining the value of taxable supplies when computing deductible input tax on residual expenses (see the “Apportionment of input tax on residual expenses” section of the VAT General Guide).

How is the tax due date determined?

The tax due date for a supply of construction services depends on whether the services are treated as a one-off supply or a continuous supply. See the “Special tax due date rules” under the “Supplies of goods and services” section of the VAT General Guide for the principles relating to one-off and continuous supplies.

Tax due date for one-off supply of construction services

A contract for construction services will be regarded as a one-off supply when there is only one payment due for the provision of the service. An example includes small projects such as a minor extension to a house where the full price is payable in one lump sum. The tax due date for construction will be determined by the tax due date rules,[12] i.e., the earliest of the following:

a. Receipt of payment

b. Completion of the services

c. The issue of a tax invoice

[12] Article 12(A) of the VAT Law

© Kingdom of Bahrain | National Bureau for Revenue

Tax due date for continuous supply of construction services

Large construction projects generally take place over a long period of time and involve staged or periodic payments. The provision of construction services involving staged or periodic payments will be regarded as continuous supplies. Therefore, the tax due date for such construction services will be the earliest of the following:

a. The date of issue of a tax invoice or equivalent document

b. The due date of payment of the amount specified in the tax invoice

c. The date of receipt of payment

When a construction contract provides for payments in accordance with certain milestones, the tax due date will be the date of each milestone in the contract if it is earlier than the dates set out above.

When twelve months have passed from the start of the contract or from the previous tax due date (as determined above), a tax due date will be triggered at that twelve-month point.

5.12. Retention payments

What is a retention payment?

Large construction contracts often contain a retention clause whereby a certain amount of the contract price is held-back or retained by the customer until the work has been certified to be complete. In some cases, the retention amount is not payable by the customer until a certain period of time has elapsed. Also, certain contracts provide that a retention amount can be held by the customer if he is not satisfied with the quality of the work.

What is the tax due date for retention payments?

The VAT Law and Executive Regulations do not contain specific provisions dealing with the tax due date for retention payments. Therefore, the usual tax due date provisions will apply and the tax due date for retention payments will be as follows:

One-off supply

If the construction service is a one-off supply and the works are complete in accordance with the rules of the contract (e.g., they have been certified as complete), the tax due date will be the date of completion of the services (e.g., the date of certification), or the date of payment or issue of the tax invoice showing the retention amount if earlier.

Continuous supply

The rules under Article 13 of the Law (as discussed above in section 5.11) will apply in determining the tax due date for the retention amount. Hence, the tax due date will be the earliest of:

a. The date the retention payment is made

b. The issue of a tax invoice in relation to the retention amount

c. The due date for payment as specified on the tax invoice in relation to the retention amount

d. Twelve months from completion of the services (as determined by the contract, e.g., certification)

The above principles will still apply when a tax invoice is issued by the provider of the construction services showing the gross amount due and a deduction from that gross amount for a retention amount. The reference to retention on the tax invoice (and its deduction from a gross amount) does not in itself trigger a tax due date on the amount retained.

Non-payment of retention amount

When the customer does not pay the retention amount to the supplier (e.g., due to a dispute about the quality of the work or the contract not being completed satisfactorily), VAT will not arise on the retention amount. If the supplier has already accounted for VAT on the retention amount (e.g., by issuing a tax invoice or when the twelve months rule applies), the supplier can either:

a. Issue a credit note and adjust the output tax originally paid on the retention amount

b. Use the bad debts provisions (see the “Bad debts relief” section of the VAT General Guide) to adjust the output tax if he considers that the retention amount is still due and payable

Transitional rules

Where a retention payment becomes payable on or after 1 January 2019 which relates to construction services completed prior to that date, the receipt of the payment by the supplier will be outside the scope of VAT.

Example
ABC Company signs a contract for a total of BHD 240,000 for the construction of a new building. The customer agrees to quarterly payments with a 10% retention payment due upon finalisation of the project. Every quarter, a tax due date is triggered at the earliest of a tax invoice being received, consideration being received or a payment due date. The taxable amount for each quarter is BHD 54,000 (BHD 6,000 being retained as a retention payment). *At the end of the project, ABC issues the completion receipt to be signed by the customer as well as the final tax invoice of BHD 24,000 which equals the retention payments due. A tax due date is triggered in respect of the retention payment at the date the tax invoice in relation to the retention payment is issued on the basis that this is the earliest of the tax due dates set out above.*

6. Input tax recovery

6.1. General rules

The general rules for input tax recovery have been set out in the "Input tax recovery" section of the VAT General Guide. It will be important to consider the VAT liability of the supplies made and, consequently, the input tax recovery position on costs.

For exempt supplies, the input tax on expenses used directly and exclusively for the purpose of making exempt supplies cannot be recovered.

When a taxable person makes taxable supplies (at 5% or 0%), the input tax on expenses used directly and exclusively for the purpose of making taxable supplies can be recovered VAT in full.

Example 1
Company A is a construction company. It constructs both new buildings and refurbishes and renovates existing buildings. All of the construction services that Company A provides are taxable at either the zero-rate or the standard rate. *On the basis that all of the expenses incurred by Company A relate to its business activities, Company A can recover the VAT it has incurred on its costs.*

Example 2
Company B is a real estate company that rents out residential and commercial property. The lease of real estate is exempt from VAT. *On the basis that all of the expenses incurred by Company B relate to its exempt activities (and it does not receive taxable supplies of goods or services for which it is liable to account for VAT at 5% under the reverse-charge mechanism), Company B will not be able to register for VAT or recover the VAT is has incurred on its costs.*

6.2. Apportionment of input tax on residual expenses

Some businesses in the real estate sector may have an economic activity which is partly taxable and partly exempt. These persons are referred to as carrying on partially exempt businesses. Further details are set out in the "Apportionment of input tax on residual expenses" section of the VAT General Guide.

It is expected that some expenses incurred by such persons cannot be directly and exclusively attributed to either their taxable supplies or their exempt supplies. Such expenses are usually called residual expenses. To determine the amount of input tax which can be recovered on these residual expenses, an apportionment will be necessary.[13]

[13] Article 45 of the Bahrain VAT Law and Article 59 of the Executive Regulations.

Example

Company A provides commercial real estate and serviced offices. Company A has both taxable (i.e., serviced offices) and exempt (i.e., commercial real estate) activities.

There are some expenses that are directly attributable to either the taxable or exempt activities of the company. There are also expenses that relate to the overall running of the business and general overheads. These expenses cannot be directly attributed to either the taxable or exempt activities and are residual expenses.

In order to determine how much input tax can be recovered, Company A will need to determine the proportional recovery rate (P) and multiply it by the total input tax attributed to the residual cost.

In the current tax period, Company A records the following income and expenses:

	Amount (BHD)
Total income from the serviced offices	*100,000*
Total income from leasing the commercial real estate	*230,000*
Salary costs	*20,000*
Input tax directly attributable to the serviced offices	*12,000*
Input tax directly attributable to the commercial real estate	*50,000*
Input tax related to residual costs	*65,000*

Based on the standard apportionment method, the proportional recovery rate will be calculated as follows:

$$\frac{\text{Total taxable supplies}}{\text{Total taxable supplies + Exempt supplies}} = \frac{100{,}000}{100{,}000 + 230{,}000} = 30.3\%$$

Based on the proportional recovery rate, Company A will be entitled to recover BHD 19,695 of input tax relating to its residual costs (BHD 65,000 x 30.3%). It will also be able to recover the BHD 12,000 of input tax directly attributable to its taxable activities.

Special apportionment methods

Depending on the nature of a taxable person's activities, it may wish to use a special apportionment method if 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 taxable and VAT exempt activities.

Please see the section on "Special apportionment methods" in the VAT General Guide for more information.

Annual adjustment of the apportionment ratio

The apportionment ratio has to be computed by tax period, using the actual values of supplies during that tax period. At the end of its tax year, the taxable person must conduct an annual adjustment of the input tax recovered throughout the tax year. Further details are provided in the “Annual adjustment of the apportionment ratio” section of the VAT General Guide.

Example

Continuing with the previous example, the following table describes Company A’s proportional recovery rate and VAT recovered for quarters 1, 2,3 and 4, assuming the input tax related to its residual costs is BHD 65,000 each quarter:

	Proportional recovery rate	***Recovered VAT (BHD)***
Quarter 1	*30.3%*	*19,695*
Quarter 2	*48.9%*	*31,785*
Quarter 3	*54.3%*	*35,295*
Quarter 4	*64.7%*	*42,055*

Company A has therefore recovered BHD 128,830 during the year. The average proportional recovery rate over the year is calculated at 49.6%.

At the end of the year, Company A will calculate how much input tax should have been recovered based on the annual values and undertake an annual adjustment, if required.

Based on the values set out above, Company A should have recorded BHD 128,960 (49.6% x BHD 260,000 equalling BHD 65,000 x 4 quarters). Company A therefore needs to adjust a total of BHD 130 on its next VAT return as a result of its annual adjustment calculation.

6.3. Capital assets scheme

Details regarding the capital assets scheme can be found on the “Change in use - Capital assets scheme” section of the VAT General Guide.

A capital asset is a tangible or intangible asset which constitutes part of the assets of the business which are assigned for long term use as a business instrument or as a means of investment.

Real estate will be considered as a tangible capital asset and, as such, the ten-year adjustment period will apply.

Example

Company A constructs a new building that will be leased to third parties as office space. Although the construction services of the new building are zero-rated, Company A incurs VAT on costs such as architects' fees, the installation of furniture that is not affixed to the building, landscaping and other similar costs. These items are incorporated in the value of the building and are regarded as capital assets.

The lease of the office space is considered as commercial real estate and is therefore exempt from VAT. At the time the building is constructed, the VAT incurred on costs relating to the construction of the building is not recovered by Company A, as it will be making exempt supplies of real estate from the building.

Three years after the building is completed, Company A decides to change the use of the building to serviced office space. This will be taxable at the standard rate and Company A will be able to use the capital assets scheme to adjust for the VAT it was previously unable to recover.

If the VAT that was not initially recovered amounted to BHD 100,000, the following calculation would be used:

$$100{,}000 \times \frac{1 \text{ year}}{10 \text{ years}} = \text{BHD } 10{,}000 \text{ recoverable at the end of year } 3$$

In the above calculation, ten years is the adjustment period for tangible assets and this calculation would need to be carried out each year for the remaining part of the adjustment period

7. Tax clarification

While the VAT Law, Executive Regulations and Guides aim to provide clarity on the operation of VAT in Bahrain, there may be instances where some level of uncertainty remains. In such cases, a taxable person (or his tax representative or tax agent) may apply for a tax clarification from the NBR seeking guidance on how to interpret and apply specific provisions of the VAT Law where this is uncertain. A tax clarification 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 tax clarification, it is recommended that the taxable person applies the VAT Law and its Executive Regulations based on the most prudent interpretation.

The NBR will issue guidelines for the tax clarification submission procedure together with the expected timeframes for providing responses.