KINGDOM OF BAHRAIN

IMPORTS AND EXPORTS VAT GUIDE

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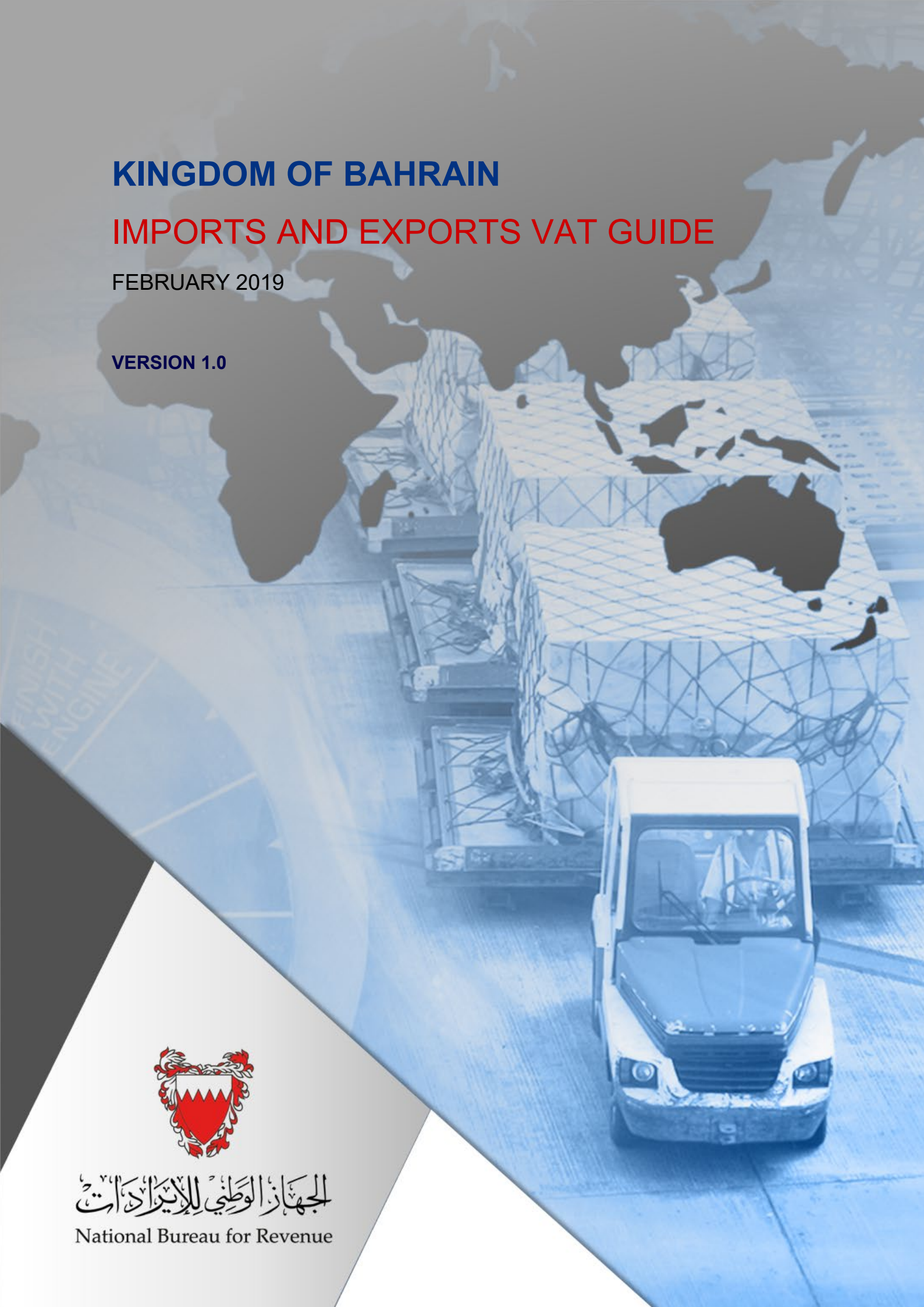


الجهاز الوطني للإيرادات

National Bureau for Revenue

Contents

1. Introduction

1.1. Purpose of this Guide

This document sets out the general principles of Value Added Tax (VAT) 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 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 will introduce VAT on 1 January 2019. The standard rate will be 5%. Certain goods and services will be subject to a zero-rate (0%) of VAT and others will be 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?

2.2.1. Overview of the VAT flow

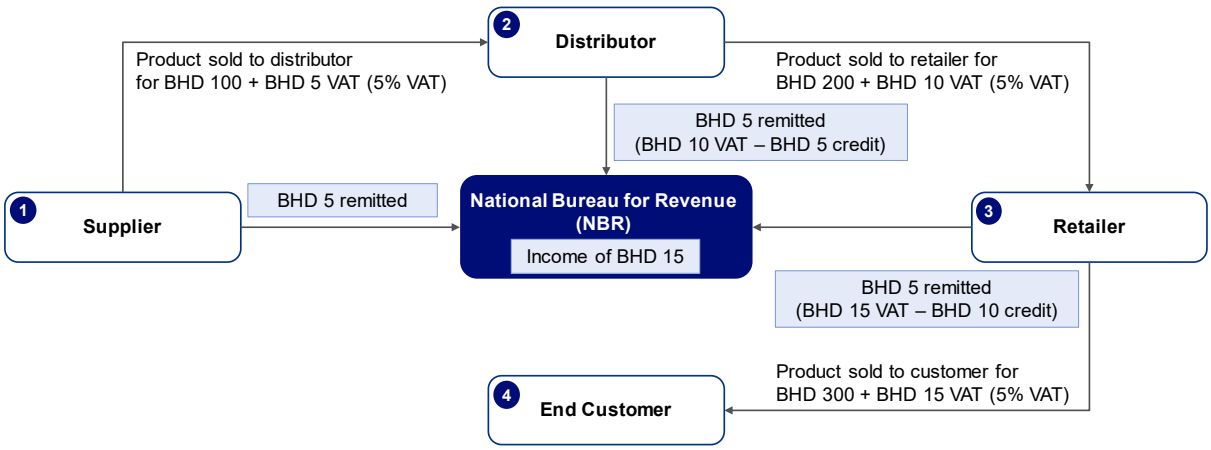
If, as a VAT registered person, you make taxable supplies (i.e.,, supplies of goods or services subject to VAT), you must charge VAT on your supplies, and pay it to the NBR. This is your “output tax”.

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 section 12.2 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.

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.

3. Definition of Implementing States

The concept of an “Implementing State” is critical when looking at import and export transactions for VAT purposes, which are the transactions this Guide considers.

The status of “Implementing State” is given by the VAT legislation to a GCC Member State that has implemented a national VAT legislation compliant with the Framework and that recognizes Bahrain as an Implementing State.

Transitional provisions

Bahrain does not currently recognize any other GCC Member States as Implementing States for the purpose of VAT. Until further notice, any transaction involving another GCC Member State is treated, for VAT purposes, as a transaction involving a non-Implementing State.

As a result, any supplies of goods or services from/to a GCC Member State are currently considered as made from/to a non-Implementing State. Also, residents of the GCC Member States are currently subject to the same rules as residents of non-Implementing States.

Intra-GCC supplies of goods (i.e., supplies between Implementing States) will be treated as exports/imports of goods until the Electronic Service System is in place and applied in all Implementing States. It is only then that the specific VAT rules applicable to Intra-GCC supplies of goods will become applicable. The Electronic Service System is the system to be implemented by the GCC member states enabling them to capture the details of all the cross-border transactions happening within the territory of the GCC.

4. Imports and Exports of goods

This section covers the VAT principles applicable to imports of goods into Bahrain and exports of goods from Bahrain.

4.1. Imports of goods

The entry of goods into Bahrain from a place outside the Implementing States' territory triggers a VAT event (i.e., an "import of goods"). The VAT treatment of imports of goods is summarized below.

4.1.1. What is an import of goods?

An import of goods is the entry of goods in the territory of the Implementing States from a place outside that territory, where the goods are cleared through customs (i.e., not placed under a customs duty suspension regime[1]).

Until Bahrain recognizes one or more GCC Member States as Implementing States, all goods entering into Bahrain that are cleared through customs will be regarded as imports of goods for VAT purposes.

The mere fact that goods enter Bahrain and are customs cleared is enough for an import of goods to have taken place for VAT purposes. Furthermore, an import of goods does not require an actual supply (e.g., sale) between two separate parties or for consideration to be paid.

Example
Cloud, a Belgian company, has a branch in Bahrain. It transfers goods from its Belgian head-office to its offices in Bahrain. Although there is no supply of goods for VAT purposes (i.e., it is a transfer of goods from the head office to the branch of the same legal person), the arrival of the goods in Bahrain from Belgium will be seen as an import of goods for VAT purposes.

4.1.2. Where does an import of goods take place for VAT?

For Bahrain VAT Law to apply, an import of goods must take place into the territory of the Kingdom of Bahrain. The VAT Law defines the territory of the Kingdom of Bahrain as "including its lands and the territorial waters and where the Kingdom of Bahrain practices its rights of sovereignty, in accordance with international law".

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

Where goods are placed under a custom duty suspension regime upon entering the territory of the Implementing States, the place of supply for the import of these goods is in the

[1] Examples of customs duty suspension regime include customs warehouse, temporary admission and transit

Implementing State where the goods are released from their customs duty suspension regime and imported.

This means that the VAT Law is applicable when the goods arrive in Bahrain and are imported at Bahrain Customs after being released from a customs duty suspension regime, where applicable.

Example 1

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

Example 2

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

Example 3

Goods are shipped from the UK to Bahrain. When they arrive in Bahrain, the goods are placed under the customs transit regime to be transported to the Kingdom of Saudi Arabia where they will be released from this suspension regime and customs cleared. The import of these goods does not fall in the VAT jurisdiction of Bahrain as they are placed under a customs duty suspension regime immediately upon arrival in Bahrain and will only be released from this suspension regime after leaving the territory of Bahrain.

4.1.3. What is the VAT treatment of an import of goods in Bahrain?

Once an import of goods takes place in Bahrain, it is necessary to identify the correct VAT treatment of the import (i.e., whether it is subject to VAT or it is VAT exempt).

Import VAT at standard rate – default position

Imports of goods, when taking place in Bahrain, are subject to VAT at the standard rate of 5%, unless they are exempt from VAT at import.

It is important to keep in mind that goods that benefit from a custom duty exemption remain subject to VAT at import at the standard rate, unless they specifically fall within one of the VAT exemptions listed below.

Exemption of import VAT – specific cases

Imports of goods are exempt from VAT in Bahrain in the following circumstances:

- Goods imported in Bahrain which are either zero-rated or VAT exempt when they are supplied locally in Bahrain (e.g., basic food items, investment precious metals, pearls and

precious stones, prescribed medicines and medical equipment, etc.). Please consult the VAT General Guide for further detail of goods which are zero-rated or VAT exempt in these circumstances.

- Import of necessities and equipment for persons with special needs, where the importer possesses the relevant documentation in accordance with the conditions and controls stipulated in the Customs Law
- Goods imported which are exempt from customs duties in accordance with the Customs Law under one of the following customs exemptions:
  - Diplomatic exemption
  - Military exemption
  - Returned goods
  - Import of personal belongings and household appliances by Bahraini citizens residing abroad and foreigners who are coming to reside in Bahrain for the first time
  - Import of personal effects and gifts accompanied by a passenger

4.1.4. Who is liable for the Bahrain VAT due on an import of goods?

The person liable to pay the VAT on an import of goods is the importer of record as determined for customs purposes.

The date on which import VAT is due is the date on which customs duties on the goods are due in accordance with the Customs Law (or the day where they would be due where none applies).

Customs duties are due in Bahrain:

- When a good arrives and is imported in Bahrain; or
- When a good is released from a customs duty suspension regime and imported in Bahrain.

4.1.5. What is the value of imported goods for VAT purposes?

The value of imported goods for VAT purposes is the customs value as determined under the Customs Law. The following also needs to be added to the customs value in order to determine the value of the goods which is subject to VAT:

- Customs duties
- Excise tax
- Where not already included in the customs value, costs relating to importing the goods such as:
  - Transportation charges, commission expenses or other similar charges in relation to the goods until their arrival in the territory of the Implementing States
  - Additional charges related to insurance, storage, packing, surveillance until their arrival in the territory of the Implementing States

Value of Goods re-imported after a temporary export

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

Example
Machinery is temporarily exported from Bahrain for repair in Europe. When the machinery is re-imported into Bahrain, import VAT will be applicable on the value added to the machinery while it was in Europe, as computed under the Customs Law. The value of the machinery before its temporary export is exempt from VAT at re-import (provided the conditions for the customs exemption applicable to returned goods are all met).

Adjustment in the value of goods imported

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

If the importer notices that the import VAT amount payable is incorrect (e.g., due to an error in classification or in value), he should raise this with Bahrain Customs Affairs before making the payment of this import VAT.

In some cases, an amendment may need to be made to a customs declaration after clearance of the goods.

If the amendment results in an additional payment of customs duty and VAT, this adjustment is processed by way of a payment order issued by Bahrain Customs Affairs, with the additional amounts collected from the importer.

If the amendment results in an overpayment of customs duty and VAT, Bahrain Customs Affairs will adjust the customs duty and VAT payable. However, Bahrain Customs Affairs will not refund the overpaid import VAT when the importer is a taxable person. Instead, the importer taxable person may recover the amount of overpaid import VAT as input tax in its tax return.

4.1.6. Payment of the VAT due on an import of goods

General rule

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

Agents acting on behalf of a non-VAT registered person

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

The agent is not entitled to claim the recovery of that import VAT in his tax return. Instead, that agent should seek a refund of that VAT directly from its client. This refund is a disbursement, whereby the agent paid the VAT due at import in the name and on behalf of his client and is merely seeking a refund of the payment from its client.

Import by a person registered for VAT in Bahrain

A taxable person who is registered for VAT in Bahrain and imports goods for the purpose of his economic activity, is expected to use his own Commercial Registration (CR) number and its own VAT Account Number[2] when importing the goods. The use of an erroneous VAT number will preclude the taxable person from claiming import VAT back from the NBR.

Where the taxable person uses a clearing agent to assist with the customs clearance process, the agent should prepare and submit the customs documentation using the CR number and the VAT Account Number of its client.

A taxable person using the VAT Account Number of another taxable person to import goods will not be entitled to claim the VAT paid on this import. This is because this import is not made using the correct VAT Account Number. Similarly, the person whose VAT Account Number has been used for that import will not be entitled to claim the VAT paid at import, given that this import is not made for the purpose of his economic activity.

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

The payment of import VAT due by a taxable person may be deferred to the submission of its tax return for the tax period during which the import took place.

The taxable person must seek prior authorization from the NBR to defer payment of import VAT. Such request for authorization is done by way of submission of a form made available by the NBR. Further detail will be provided in due course.

[2] Also referred to as Tax Registration Number (“TRN”)

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

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

The NBR has full discretion as to whether to permit a taxable person to defer the payment of VAT on the import of goods.

Where the importer has received the authorization to defer the payment of import VAT, his VAT Account Number will be flagged to Bahrain Customs Affairs as authorized for VAT payment deferral and the goods will be released without import VAT being collected by Bahrain Customs Affairs.

The importer must account for the VAT due on imports in his relevant tax return. In addition, he may also be eligible to recover this VAT as input tax (subject to the normal input tax recovery rules).

4.1.7. Recovery of the VAT paid on import of goods

A taxable person registered for VAT in Bahrain can claim the VAT paid on his imports of goods provided the conditions for input tax recovery as set out in the VAT Law and the Executive Regulations are all met (i.e., the taxable person will use the goods for the making of taxable supplies and the recovery of VAT on these goods is not disallowed). The use of an erroneous VAT number will preclude the taxable person from claiming import VAT back from the NBR.

It is essential that the taxable person keeps records of the customs documentation issued by Bahrain Customs Affairs which proves that he imported the goods into Bahrain and paid the VAT due on them (or deferred the payment to his tax return). These are the documents which will allow the taxable person to support the recovery of the VAT and claim this VAT back in his tax return.

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

Where the payment of import tax has been deferred to the taxable person’s tax return, the taxable person will be able to also report this VAT as a recoverable input tax within the same tax return (provided all the conditions for recovery are met at that time, including the customs documentation supporting the deferral of payment).

4.2. Exports of goods

Exports of goods, when taking place in Bahrain, are subject to Bahrain VAT at the rate of 0%. The zero-rate allows Bahrain businesses selling goods at export to remain competitive:

- Selling prices are not impacted by VAT (i.e., VAT is charged but at a rate of 0%); and
- Businesses are able to recover VAT charged on expenses incurred relating to the goods exported

The application of VAT at the zero-rate on exports of goods is subject to certain conditions, as described in section 4.2.2 of this Guide.

4.2.1. What is an export of goods?

An export of goods is a supply of goods with transport (i.e., a supply to which a transport is attached) where the goods are shipped from a place in Bahrain to a place outside the territory of the Implementing States.

In order to be recognized for VAT purposes, an export of goods requires an actual supply of the goods, i.e., a sale of the goods between two legally independent persons for a consideration (in kind or in cash).

Only supplies of goods with shipping starting from a place in Bahrain to a place outside the territory of the Implementing States fall within the scope of the VAT Law and may qualify as zero-rated exports of goods, subject to certain conditions being met (see section 4.2.2).

Supplies of goods with shipping starting from a place outside Bahrain to a place outside Bahrain do not fall within the scope of the Bahrain VAT Law and are therefore disregarded from a Bahrain VAT perspective. Such supplies of goods are outside the territorial scope of VAT Law.

4.2.2. What are the conditions to apply VAT at the zero-rate?

For a supply of goods to qualify as an export of goods and to be subject to VAT at the zero-rate, all of the following conditions must be met:

a. The goods sold must be shipped from a place in Bahrain to a destination outside the Implementing States within 90 days from the date of their supply

b. The goods must not have been changed, used or sold to a third party before leaving Bahrain, and

c. The supplier must retain the commercial and official documents evidencing the shipment (please consult section 4.2.3 for further detail).

The person responsible for shipping the goods to a destination outside the Implementing States per (a) above can be the supplier, the purchaser or a third party acting for the supplier or purchaser (i.e., direct and indirect exports can be subject to VAT at the zero-rate).

Goods will be considered as being shipped to a place outside the territory of the Implementing States on the day they leave the territory of Bahrain to a destination outside the Implementing States.

It is the supplier's responsibility to check that all of the conditions to apply VAT at the zero-rate are met and to retain the necessary supporting evidence.

The supplier can apply VAT at the zero-rate immediately at the time of the supply provided he can reasonably expect, based on a normal course of events, to be in possession of the export supporting documentation within 90 days from the date of the supply of the goods. If he is not in possession of the required documents within that timeframe, he must adjust the VAT treatment and consider the supply as a domestic supply for VAT purposes. This may require the supplier to account for VAT at the standard 5% rate (depending on the VAT rate applicable to the supply of the goods), and the supplier would be required to issue a new tax invoice evidencing a domestic supply.

If the shipping is organized by the purchaser of the goods or by a third party acting on his behalf, it is critical that the supplier obtains all the required documentation from the purchaser to support that the goods:

- Have been shipped by the purchaser (or by a third party acting on his behalf) to outside the territory of the Implementing States within the 90-day timeframe, and
- Have not been transformed, used or sold by the purchaser before their shipping.

The supplier is expected to treat a supply of goods as a local supply of goods if the evidence provided by the purchaser is not satisfactory.

The supplier is required to issue a valid tax invoice for his export of goods by the 15th day of the month following the month during which the supply took place – in accordance with the tax due date rules (see the "Tax due date rules" section in the VAT General Guide for further detail).

Date of supply for the purpose of computing the 90-day timeframe

One of the conditions for a supply of goods to qualify as an export of goods subject to the zero-rate in Bahrain is that the goods are shipped to outside the territory of the Implementing States within 90 days from their date of supply.

For the purpose of computing the 90-day timeframe, the date of supply is:

- The date on which the transport of the goods starts, where the transport is supervised by the supplier, or
- The date on which the goods are placed at the disposal of the purchaser, where the transport is not supervised by the supplier.

Sales of goods in the departure and arrival areas of an airport or port in Bahrain

Goods sold in shops located in the departure areas of an airport or port in Bahrain are subject to Bahrain VAT at the zero-rate, provided all of the following conditions are met:

- The goods are sold in a departure area, after customs and security checks, of an airport or port to a passenger of an aircraft or a vessel which is scheduled to leave Bahrain
- The passenger intends to leave Bahrain for a place outside the territory of the Implementing States in possession of the goods (i.e., the goods are typically not meant to be consumed while the passenger is still in the departure area)
- The supplier has obtained and retained evidence that the passenger intends to leave Bahrain for a destination outside the territory of the Implementing States

The application of the zero-rate is limited to sales of goods which are not meant to be consumed upon their purchase. The sale of food and beverages meant to be consumed immediately (e.g., sales by vending machines) as well as the supplies of services performed in departure areas (e.g., restaurants, access to lounge, etc.) remain subject to VAT at the standard rate, unless they are covered by a specific zero-rate regime or a VAT exemption.

Goods sold in shops located in the arrival areas are, in principle, subject to VAT at the standard rate, unless they are covered by a specific zero-rate regime or a VAT exemption.

4.2.3. What documentation is used to prove an export of goods?

In order to apply Bahrain VAT at the zero-rate, the supplier of the goods must be in possession of valid export documents proving that the goods left the territory of Bahrain for a destination outside the territory of the Implementing States within 90 days of their date of supply.

The documents required include the following:

- The documentation issued by the Customs Affairs at the Ministry of Interior to confirm the export. This documentation must be in the name of either the supplier or the purchaser or a third party acting in one or the other's behalf.
- The commercial document which identifies the supplier, the customer and the place of delivery of the goods.
- The transportation documents confirming the delivery of the goods outside the territory of the Implementing States (e.g., bill of lading, airway bill or certificate of shipment).
- For the sales of goods in a departure area of an airport or port, details of the boarding pass of the purchaser (e.g., name, flight number, destination) evidencing that the individual is travelling to a destination outside the territory of the Implementing States.

In addition, in cases where the shipping is organized by the purchaser, evidence that the goods have not been transformed, used (in whole or in part) or supplied to any third party between the date of their supply and their shipping may be required by the NBR.

4.2.4. Other transactions at export subject to VAT at the zero-rate

The zero-rate also applies to the following transactions:

- The supply of goods to a customs duty suspension regime provided the goods are moved into the regime within 90 days from their date of supply and in accordance with the conditions for the regime to apply (e.g., supplies of goods transferred from the “domestic market” to a customs warehouse).
- The supply of goods within a customs duty suspension regime provided the conditions for the customs suspension regime are all met (e.g., supplies of goods within a customs warehouse).
- The re-export of goods temporarily imported into Bahrain for repair, conversion, restoration and processing. The zero-rate applies to the repair, conversion, restoration, processing supplies and to the goods that became part of these goods as well as to those which became unusable or worthless as a result of their use for the repair, restoration, conversion or processing. These goods are those provided by the supplier of the above services (i.e., as part of the costs of the supply). This applies, provided that the conditions for temporary import under the Customs Law are met, and the supporting documentation evidencing the re-export of the temporary imported goods is retained by the supplier (i.e., the same documentation required for an export of goods – as covered in section 4.2.3 of this Guide).

5. Imports and Exports of services

This section covers the VAT principles applicable to services received in Bahrain from non-resident suppliers as well as to services exported from Bahrain.

5.1. Imports of services

5.1.1. What is an import of services?

While the VAT Law does not explicitly mention the term “imports of services”, it is often common in practice to refer to services as “imported” if they meet the following criteria:

- They are performed by a non-resident supplier to a resident recipient who is a taxable person
- Their place of supply for VAT is the place of residence of the recipient taxable person (Bahrain in this case)
- The recipient of the services, a taxable person in Bahrain, is the person liable to account for VAT on these supplies, in accordance with the reverse-charge mechanism (see section 5.1.2 for further detail)

In Bahrain, services typically regarded as “imported” services are those following the place of supply rule summarized in Table 2:

Table 2: Place of supply for “imported” services

Place of residence of the Supplier	Place of residence of the customer	Place of supply
Outside Bahrain	Bahrain	Bahrain – only when the customer is a taxable person

This place of supply rule applies to the majority of supplies of services by a supplier who is not a resident in Bahrain to a customer who is a taxable person resident in Bahrain. If these supplies of services are subject to VAT in Bahrain at the standard rate of 5%, the person liable to account for VAT is the customer taxable person.

Example

A business resident and registered for VAT in Bahrain receives consulting services from a company based in the USA.

As the services are performed by a non-resident supplier to a resident in Bahrain who is a taxable person, the place of supply of these services is in Bahrain (i.e., the place of residence of the customer taxable person).

The consulting services are subject to VAT in Bahrain at the standard rate of 5% and the person liable to account for that VAT is the Bahrain business.

These services are commonly referred to as "imported" services from a VAT practical perspective.

Note that if the consulting services were provided to a resident customer who is not a taxable person (e.g., a private individual), the place of supply of these services would be in the country of residence of the supplier (i.e., the USA) and VAT in Bahrain would not be applicable.

"Imported" services should be distinguished from the supplies of services listed below under Table 3. The services below follow their own special place of supply rules, which differs from the place of residence of the customer taxable person, as covered in Table 2 above. That is the reason why these supplies are usually not considered as "imported" services.

Table 3: Special place of supply for services

Service	Place of supply
Transport of goods, passengers and relating services to such transport	Where the transport commences
Restaurant, hotel, catering, cultural, artistic, sporting or recreational	Where the service is performed
Related to Real Estate	Where the Real Estate is located

If the place of supply of these services is in Bahrain, the supplier is in principle liable to account for VAT at the standard rate (unless the services are zero-rated or VAT exempt).

However, when the supplier is not a resident in Bahrain and the customer is a taxable person in Bahrain, the liability to apply the correct VAT treatment is shifted to the customer, who becomes required to account for VAT under the reverse-charge mechanism. It is under this scenario that these services may be considered as "imported" services.

Example

A company registered for VAT in Bahrain receives landscaping services for its Bahrain offices from a supplier residing in Italy.

These services are related to a specific real estate located in Bahrain. Therefore, their place of supply follows the special place of supply rule applicable to real estate related services. The place of supply of these services is thus in Bahrain (i.e., where the real estate is located).

The landscaping services are subject to Bahrain VAT at the standard rate of 5%.

As the services are performed by a non-resident supplier to a customer which is a taxable person in Bahrain, the person liable to account for VAT in Bahrain is the customer, under the reverse-charge mechanism.

These services may commonly be considered as "imported" from a VAT practical perspective.

Note that if the landscaping services were provided to a customer who is not a taxable person (e.g., a private individual acquiring the services for his house in Bahrain), the person liable to account for Bahrain VAT on the services would be the supplier. The supplier would therefore be required to register for VAT in Bahrain.

5.1.2. VAT liability under the reverse-charge mechanism and input tax recovery

Output tax due

Under the reverse charge mechanism, the VAT liability for certain taxable supplies is shifted from the supplier to the customer taxable person. The customer becomes the one liable to account for the VAT due on the supply as output tax and reports it in his tax return for the tax period during which the supply took place (in accordance with the tax due date rules).

The customer liable to account for VAT under the reverse-charge mechanism is required to record the VAT amount due, in Bahraini Dinars, on the invoice issued to him by the supplier. The VAT amount can be written in pen.

In Bahrain, the reverse-charge mechanism is applicable by default to the following supplies of services and goods performed by a non-resident supplier:

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

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

Where a non-resident supplier supplies goods or services subject to VAT in Bahrain to customers who are not taxable persons, the reverse charge mechanism does not apply. Under

this scenario, the non-resident supplier is required to register for VAT in Bahrain in order to charge VAT in Bahrain on these supplies.

In cases where a non-resident supplier is registered for VAT in Bahrain and supplies goods or services subject to VAT in Bahrain to both taxable persons and non-taxable persons, the following applies:

- The non-resident supplier must charge Bahrain VAT on his supplies of goods or services to customers which are not taxable persons
- The non-resident supplier must not charge Bahrain VAT on his supplies of goods or services to customers which are taxable persons. These customers are required to account for Bahrain VAT under the reverse-charge mechanism

In both cases, the non-resident supplier must issue valid tax invoices for his supplies. When issued to customer taxable persons, the supplier must not charge VAT but may quote “supply subject to reverse-charge mechanism” on his tax invoices.

Recovery of input tax

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

As a result, if the taxable person is entitled to full recovery of input tax, the reverse charge mechanism will lead to a full net-off cash position where the amount of output tax due under the reverse-charge mechanism can be fully netted against the same amount reported as recoverable input tax.

Example

A taxable person resident in Bahrain receives legal services from a non-resident supplier. As the services are supplied to a taxable person resident in Bahrain, their place of supply is Bahrain (i.e., the residence of the customer taxable person). Under the VAT Law, such services are subject to VAT at the standard rate of 5%.

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

The fee for the services is BHD 20,000. The customer will self-account for VAT at 5% (i.e., BHD 1,000), will record this amount on the invoice received from the supplier and will also report it as output tax due in his tax return.

The customer is using this expense to make taxable supplies and can therefore recover the VAT charged on it in full. The customer will therefore be able to report BHD 1,000 as recoverable input tax in his tax return.

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

If the customer was only entitled to recover 50% of the VAT incurred on this business expenses, he would only recover BHD 500 input tax in its tax return (i.e., 50% of BHD 1,000). The net amount of VAT due by the customer to the NBR on this supply would therefore amount to BHD 500 (i.e., BHD 1,000 output tax less BHD 500 recoverable input tax).

5.2. Exports of services

Exports of services, when taking place in Bahrain, are subject to VAT in Bahrain at the rate of 0%. The zero-rate allows Bahrain businesses offering services at export to remain competitive:

- The price of services at export is not impacted by VAT (i.e., VAT is charged but at a rate of 0%); and
- Businesses are able to recover the VAT charged on their expenses incurred in making exports of services.

The application of VAT in Bahrain at the zero-rate on exported services is subject to certain conditions, which are detailed further in this section.

5.2.1. Services eligible for “export”

Services eligible to qualify as export of services are those supplied by a supplier from his place of residence in Bahrain.

Only supplies of services with a place of supply in Bahrain, in application of the general place of supply rule in Article 16 of the VAT Law, are eligible to qualify as export of services (i.e., services for which the place of supply is in Bahrain given that the supplier’s place of residence is in Bahrain).

These services will qualify as export of services and be subject to VAT in Bahrain at the zero-rate provided the conditions are met, as detailed in section 5.2.2.

Example

A law firm resident and registered for VAT in Bahrain provides services to a company based in the USA which wants to understand the Bahrain legal framework around setting up a company in Bahrain.

The place of supply of the legal services is in Bahrain under Article 16 of the VAT Law. This is because the services are performed by a Bahrain resident supplier to a recipient who is not a taxable person in an Implementing State.

These services may be subject to VAT in Bahrain at the zero-rate provided they meet all the conditions to qualify as export of services.

Services not eligible for export

Supplies of services with a place of supply in Bahrain as a result of the application of a special place of supply rule, as explained in Articles 17 and 18 of the VAT Law, are not eligible to qualify as export of services (e.g., services related to real estate, restaurants and hotel services, transport of goods and passengers, telecommunications and electronic services, etc.).

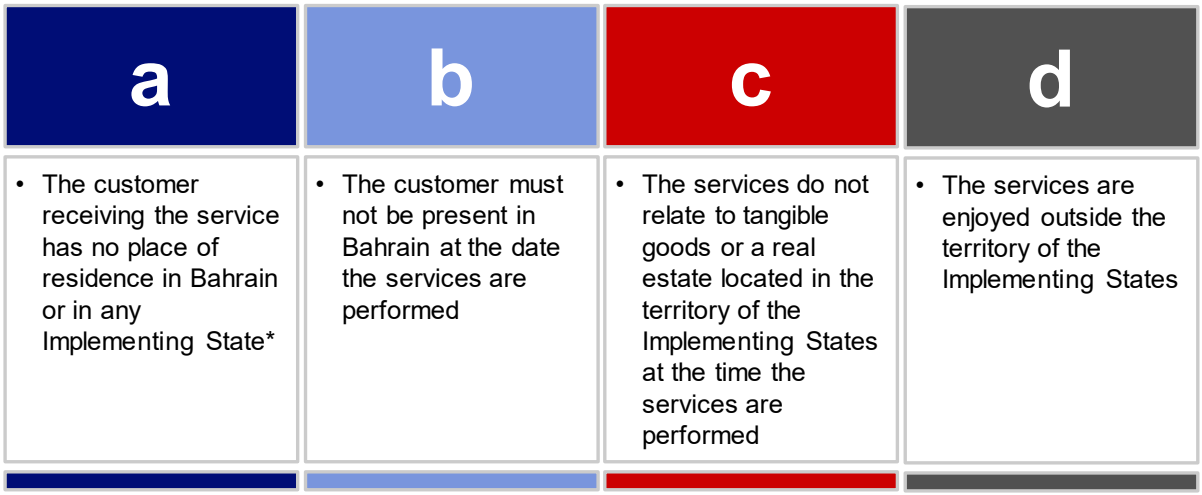
Such services, when supplied in Bahrain, are subject to VAT at the standard rate of 5%, unless they fall under a specific VAT exemption or a specific zero-rate regime (other than the export of services regime).

Where their place of supply is in a jurisdiction other than Bahrain (e.g., catering services performed in KSA), the VAT Law does not apply and these services are to be treated as being outside the territorial scope of the Bahrain VAT Law.

5.2.2. Conditions for the zero-rate to apply

The VAT Law and Executive Regulations provide the conditions for the resident taxable person to apply the zero-rate on his services eligible to qualify as “export of services”.

Figure 2: Zero-rate conditions for exports of services



*The customer with multiple places of residence will still be considered as a non-resident in Bahrain if his place of residence in the Kingdom or in any other Implementing State is not the most closely connected to the service supplied.

As described in Figure 2, the resident taxable person must ensure that four key conditions are met in order for the zero-rate to apply to the exports of services, specifically:

a. The customer receiving the service has no place of residence in Bahrain or in any Implementing State

Customer

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

In this respect, the signing party to a service contract will not necessarily be considered as the customer, if there is no sufficient evidence that this person is actually receiving the services.

There are generally strong grounds to consider the contracting party as the person actually receiving the services when, in practice, that person is also the one ordering and instructing the supplier with regards to the services as well as receiving, reviewing and accepting the deliverable.

The nature of the supply, especially whether it can actually be received by and benefit the contracting party, has also to be taken into account.

When there is a discrepancy between the contracting party (i.e., the person that signed the service agreement with the supplier) and the actual recipient of the services, the contracting

party must be disregarded and the services are to be considered as received by the actual recipient (i.e., the customer for the purpose of applying this condition).

Finally, a person paying for the services cannot be treated as the customer, unless there is additional evidence that this person is actually the person receiving the services.

Example

A consulting company resident and registered for VAT in Bahrain entered into a contract with an entity based in Spain for the provision of advisory services. The advisory services relate to a business acquisition to be made by a Bahrain based holding company owned by the Spanish entity.

While the contract is signed with the Spanish entity and the services will be paid by that Spanish entity, the consulting company actually receives instructions directly from the Bahrain entity, it reports on the progress to the Bahrain entity and will deliver its report for discussion and sign-off to the Bahrain entity.

In this scenario, the person with whom the consulting company entered into the service agreement and from whom it will receive a payment cannot be considered as the customer of the services. It appears from the fact and economic reality that the actual customer of the services is the Bahrain entity. There is a discrepancy between the "contractual" customer and the "actual" customer.

Consequently, for the purpose of assessing the customer and his place of residence, the consulting company must disregard the "contractual" customer (i.e., the Spanish entity) and consider the "actual" customer (i.e., the Bahrain entity).

As a result, the services are considered supplied to a customer that has a place of residence in Bahrain. The consulting company cannot charge VAT at the zero-rate on its services as they do not meet the conditions to qualify as export of services.

Place of residence

Where a customer has multiple places of residence for VAT purposes, his residence for the purpose of this condition has to be assessed based on the place of residence that is most closely connected to the supply of the relevant services (i.e., the place of residence actually receiving the services).

As a result, a customer with a place of residence outside the Implementing States and a place of residence in Bahrain (or in an Implementing Sate) will be considered as non-resident in Bahrain and in the Implementing States if, for that specific supply of services, the place of residence the most closely connected is the one located outside the Implementing States.

If it is not possible to assess with certainty the place of residence that is the most closely connected to the supply, the customer will be considered as resident in Bahrain (or in the Implementing States) for that specific supply of services.

Example

An accounting company resident and registered for VAT in Bahrain entered into a contract with an entity based in South Africa for the provision of due diligence services. These services are requested because the South African entity may decide to acquire an equity stake in an existing Bahrain trading company. The South African entity has a branch in Bahrain which acts mainly as a representative office.

For these specific services, the accounting company entered into a contract with the South African head-office. It is also in touch, report and deliver to people based in South Africa.

In the case at hand, the customer has multiple places of residence; i.e., a place of business in South Africa and a fixed establishment in Bahrain. It is necessary for the accounting company to assess the customer's place of residence that is most closely connected to the due diligence services.

Based on the nature of the services supplied, the rationale behind these services (i.e., acquisition of an equity stake by the South African entity) and the way these services are delivered, it is clear that the customer's place of residence most closely connected to the services is the place of business in South Africa as opposed to its Bahrain branch.

Consequently, for the purpose of assessing the customer's place of residence, the accounting company must disregard its customer's place of residence in Bahrain and will consider it as having a place of residence in South Africa when receiving the due diligence services.

As a result, the services are considered supplied to a customer that has no place of residence in Bahrain or in any other Implementing State. The accounting company may be able to charge VAT at the zero-rate on its due diligence services provided all the other conditions for them to qualify as export of services are met.

The assessment of the customer as well as of his place of residence the most closely connected to that supply has to be made based on the actual nature and substance of the supply performed. Evidence of such assessment should be kept by the supplier.

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

Presence in Bahrain does not mean having a place of residence in Bahrain.

If the customer is physically present in Bahrain, even if just visiting, he will be considered as having a presence in Bahrain.

However, a customer will not be considered present at the time the services are performed when his presence in Bahrain is not the most closely connected to the services received.

Example

A translation services agency resident and registered for VAT in Bahrain is requested by a South Korean based company to provide translation services in relation to specific documents to be translated from English into Arabic. These documents are to be submitted by the South Korean company as part of the bidding process for a request for proposal for a new project to take place in Bahrain (installation of solar panels on several buildings).

The South Korean entity has already won a similar project in Bahrain (unrelated to this new project) and has currently a team on site in Bahrain taking care of the installation. This team has been sent on site directly from South Korea and will stay in Bahrain for a limited period of time (i.e., the time to install the panels).

The translation services are provided to a customer who has a place of residence outside Bahrain and the other Implementing States but who has a presence in Bahrain at the time the services are performed.

However, the customer's presence is Bahrain is not the most closely connected to the translation services. These services are requested by the South Korean company to submit a bid with the aim to win a new project in Bahrain while its current presence in Bahrain is solely for the purpose of delivering on an existing project, which is unrelated to the new project for which the company will bid.

When supplying its services, the translation services agency will consider that its customer has a place of residence outside Bahrain and the other Implementing States and has no presence in Bahrain at the time the services are performed. It may be able to charge VAT at the zero-rate on its translation services provided all the other conditions for them to qualify as export of services are met.

In addition to the services covered above, the translation services agency is also requested by the South Korean company to provide translation services to the team working on site in Bahrain on the existing project (e.g., translator to attend commissioning meetings between the team and the client).

For these services, the presence of the South Korean company in Bahrain must be considered as the most closely connected to the services. Therefore, the translation services agency must consider that its customer has a presence in Bahrain at the time the services are performed. It will not be able to treat these services as export of services.

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

Services related to tangible goods

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

Services related to real estate

Services related to real estate are those which have real estate as the central part of the services (e.g., insurance for a property), but which do not qualify as "directly connected with the real estate" under Article 16 of the Executive Regulations.

These services cannot be treated as zero-rated exported services when the tangible goods or the real estate are in Bahrain at the time the services are performed.

These services cannot be treated as zero-rate exported services when the tangible goods or the real estate are located in another Implementing State at the time they are performed, unless they are actually subject to VAT in that Implementing State.

Example

A person residing in the UK owns a real estate property in Bahrain (house used for investment purposes). This person has entered into an insurance contract for this property with a Bahrain based insurance company which is registered for VAT purposes in Bahrain.

The customer has no place of residence in Bahrain and in the other Implementing States and has no presence in Bahrain.

However, the central part of the insurance services is the real estate property which is located in Bahrain. Therefore, the insurance services do not meet the conditions to qualify as export of services.

In addition, this person (residing in the UK) owns a car in Bahrain that he uses when visiting. This car is insured with the same Bahrain based insurance company and also needs an annual maintenance service.

As the central part of, respectively, the insurance services and the annual maintenance services is a tangible good which is located in Bahrain at the time the services are performed, the services of respectively insurance and maintenance do not meet the conditions to qualify as export of services.

d. The services are enjoyed outside the territory of the Implementing States

For purposes of (d), enjoyed shall mean that the services must be received and consumed/used by the customer at a place of residence which is outside Bahrain and the territory of the Implementing States. In considering this requirement, see the description at (a) above on the concept of place of residence as well as at (b) and (c).

Also, the services must not be used by the customer for the purposes of specific operations that he carries out in Bahrain or in another Implementing State.

Finally, the services must not be actually received by a person, other than the customer, who is resident in Bahrain or in an Implementing State. In considering this requirement, see the description at (a) above on the concept of customer.

Example

A French company contracts with a Bahrain based consulting firm registered for VAT purposes to receive a specific study on the Bahrain market for a specific type of services it may decide to offer in Bahrain.

The French company has no physical presence in Bahrain, neither by way of a fixed establishment nor by way of one-off or temporary visitors. Also, it is currently not "commercially" present on the Bahrain market (i.e., it does not supply any products or services in Bahrain).

Even if the services relate to the Bahrain market, they are not "enjoyed" by the French company in Bahrain, neither through a place of residence in Bahrain nor through a physical presence in Bahrain. These services are not related to tangible goods or a real estate located in Bahrain or in another Implementing State. Besides, these services are not used by the company for the purposes of operations that it carries out in Bahrain or in another Implementing State. Therefore, the Bahrain based consulting firm should be able to treat its services as export of services and to apply VAT in Bahrain at the zero-rate.

On the other hand, if the French company was offering products on the Bahrain market (e.g., music streaming services to Bahrain customers) and the services received were to be used for the purposes of its specific operations carried out in Bahrain (e.g., creation of a specific advertisement campaign for the Bahrain market), these services would be considered as enjoyed in Bahrain and they would not meet the conditions to qualify as export of services.

If all of the above conditions are met, the services will qualify as export of services and the taxable supplier resident in Bahrain will be entitled to apply Bahrain VAT at the zero-rate.

The supplier is expected to keep evidence that all the above conditions are met so as to support the application of Bahrain VAT at zero-rate on his services.

The supplier will also be required to issue tax invoices for these services. A tax invoice must be issued at latest by the 15th day of the month following the month during which the supply of exported services took place – in accordance with the tax due date rules (see the "Tax due date rules" section in the VAT General Guide for further detail).

6. 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.