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Kingdom Of Bahrain

Imports and Exports VAT Guide

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Preface

This document sets out the general principles relating to the treatment of imports and exports under the VAT system of the Kingdom of Bahrain (Bahrain).

VAT was introduced in Bahrain with effect from 1 January 2019 with a standard rate of VAT of 5%. With effect from 1 January 2022, the standard rate of VAT was revised to 10%. See the VAT Rate Change Transitional Provisions Guide on the NBR website (www.nbr.gov.bh) for an explanation of the transitional rules relevant to the change in rate.

This guide is intended to provide general information only, and contains the current views of the National Bureau for Revenue (NBR) on its subject matter. This Guide is not a legally binding document, and does not commit the NBR or any other person, including a VAT payer, 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.

The main principles of the VAT system in the Kingdom of Bahrain are set out in the VAT General Guide issued by the NBR which is available on the NBR's website, www.nbr.gov.bh. This document should be read in conjunction with the VAT General Guide.

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Updates to this guide

Version 1.1	**6 May 2019**	**New sub-section under section 1.1.7** Import by non-resident suppliers
		Change in section 1.1.8 Precision regarding the VAT period during which import VAT paid at customs can be claimed back
Version 1.2	**4 February 2021**	**Change in section 1.1.6** Claiming excess VAT paid at Customs by making a claim to the NBR
Version 1.3	**1 January 2022**	**Addition to section 1.1.8** Clarification on import documentation that can be provided by a customs clearing agent to its customer in certain circumstances to evidence import VAT

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1. Imports and Exports of goods

1.1. Imports of goods

1.1.1. Introduction

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.

1.1.2. Definition of 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 is an import of goods for VAT purposes.

1.1.3. Place where 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 customs 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 a 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 within 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.

1.1.4. VAT treatment of import of goods into 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 10%, unless they are exempt from VAT at import.

Goods that benefit from a customs duty exemption remain subject to VAT at import at the standard rate of 10%, 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 into 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.

1.1.5. Person liable for 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 into Bahrain; or

- When a good is released from a customs duty suspension regime and imported into Bahrain.

1.1.6. 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; and
- 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; and
  - 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 VAT 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 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 VAT, this can be recovered from the NBR. Persons who are not registered for VAT may make a claim for the overpaid amount directly from the NBR. A VAT registered person may recover the amount of overpaid import VAT as input VAT in his VAT return.

1.1.7. 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.

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 VAT 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 (resident in Bahrain)

A VATable 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 his own VAT Account Number when importing the goods. The use of an erroneous VAT number will preclude the VATable person from claiming import VAT back from the NBR.

Where the VATable 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 VATable person using the VAT Account Number of another VATable 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 VATable persons in Bahrain

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

The VATable 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.

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

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

The NBR has full discretion as to whether to permit a VATable 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 VAT return. In addition, he may also be eligible to recover this VAT as input VAT (subject to the normal input VAT recovery rules).

Import by non-resident suppliers

There may be cases where a non-resident supplier is required to bring goods into Bahrain from outside the territory of the Implementing States for the purpose of supplying them as part of a supply of goods with installation or as part of a construction service carried out in Bahrain.

From a contractual point of view, the ownership and the risks associated with the goods will transfer from the non-resident supplier to his customer at the time the installation / construction is completed. At the time of their import into Bahrain, the goods will still be under the ownership and “control” of the non-resident supplier.

The approach summarized below is to be followed when goods owned by and under control of a non-resident supplier are imported into Bahrain for the purpose of being sold either with installation or as part of a construction service.

If the customer is a VAT registered person resident in Bahrain, he may import the goods under his CR number and VAT Account Number. Import VAT will be payable upon import of the goods unless a VAT exemption at import applies.

Provided the non-resident supplier's subsequent supply of the goods (with installation or as part of a construction service) is not VAT exempt, the VAT registered customer will be entitled to recover in full the VAT paid on the import of the goods. This is regardless of his usual input VAT recovery entitlement (e.g. a bank which is usually entitled to partially recover the input VAT charged on its expenses would be entitled to recover that import VAT in full).

The full recovery of import VAT is subject to the VAT registered customer being able to prove that the goods are imported for the purpose of a VATable supply (at 10% or 0%) to be made by a non-resident supplier. Evidence can be the supply agreement or purchase order entered into between the VAT registered customer and his non-resident supplier.

Unless VAT at the zero-rate applies, the VAT registered customer will also be liable to self-account for VAT under the reverse charge mechanism on the supply of the goods with installation or on the construction services, including on the value of the goods, made by the non-resident supplier (in accordance with the relevant VAT due date rules applicable to the supply). The recovery of this VAT will depend on whether the VAT registered customer will use (partially or fully) the acquired goods/construction for the purpose of a VATable activity.

Example

AAB Bank ("AAB") has a place of residence and is registered for VAT in Bahrain. Its recovery ratio for input VAT charged on its overheads is 40% (i.e. AAB can recover 40% of the VAT charged on its overhead expenses).

AAB contracts with a supplier based in Switzerland ("SecurIT") for the installation of a new IT secured network at AAB's offices in Bahrain. The supplier will procure all the equipment (e.g. hardware, cables, servers, etc) and will send its engineers to Bahrain to carry out the installation and the commissioning. The equipment will be shipped from Switzerland to Bahrain.

The supply made by SecurIT is a supply of goods with installation taking place in Bahrain and on which Bahrain VAT at the standard rate of 10% applies.

AAB, being a VAT registered person in Bahrain, will import the equipment under its CR number and its VAT account number and will pay import VAT on the entry of the equipment into Bahrain.

Even though AAB is only entitled to recover 40% of the VAT charged on its overheads, it will recover in full the VAT paid on the import of the equipment in its VAT return. This is because the equipment imported will be used to make a VATable supply in Bahrain (i.e. the supply of equipment with installation by SecurIT) and AAB is able to evidence this (e.g. it has the supply agreement entered into with SecurIT which describes the supply and the equipment to be sold as part of this supply).

AAB will also be liable to self-account for VAT, under the reverse charge mechanism, on the supply with installation made by SecurIT, in accordance with the relevant VAT due date rules applicable to the supply. The VATable base will be the total value of the supply, including the value of the equipment sold. AAB will only be able to recover 40% of the VAT due on this supply as this supply will be considered an overhead cost for AAB (i.e. AAB will use the IT secured network for both its VATable and VAT exempt activities).

1.1.8. Recovery of the VAT paid on import of goods

General rules

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

It is essential that the VATable person keeps records of the customs documentation issued by Bahrain Customs Affairs which proves that he imported the goods into Bahrain (i.e. was the importer of record) and paid the VAT due on them (or deferred the payment to his VAT return). The customs documentation should show the Commercial Registration number and the VAT Account Number of VAT payer. These are the documents which will allow the VATable person to support the recovery of the VAT and claim this VAT back in his VAT return.

In practice, import VAT can be recovered as “input VAT” in the VATable person’s VAT return for the VAT period during which the payment of VAT to Bahrain Customs Affairs was made, provided all the conditions for input VAT recovery are met.

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

Clearing agents

If a VAT payer uses a customs clearing agent in the course of importing goods, the import documentation should show the customer as importer of record. An agent should not be shown as an importer of record unless it is importing goods for its own use. If the agent is shown as the importer of record in relation to goods imported for a customer, the agent cannot recover the import VAT as input VAT.

Where one shipment contains goods for more than one customer of a clearing agent, the customs declaration should, for each good, show the details of the person on whose behalf the agent is importing such good. The agent should liaise with Customs Affairs at the Ministry of Interior on the relevant procedures in this regard.

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For confidentiality reasons, customs clearing agents typically do not provide customs documentation to their customers where one document shows information on goods imported on behalf of more than one customer. In such circumstances, for the purposes of claiming input VAT, the NBR will accept an alternative document issued by a clearing agent containing the following information:

- Details of the VAT payer on whose behalf the agent imported the goods (to include name, address and VAT account number);
- Details of the goods imported on behalf of the VAT payer by the agent;
- The reference number of the customs document under which the import was made;
- The date of the import;
- The amount of the VAT paid in respect of the goods imported; and
- A statement confirming that the VAT amount has been paid to Bahrain Customs Affairs.

The document should be on the headed notepaper of the clearing agent and should be signed and stamped.

The customer should retain the alternative document in order to evidence entitlement to input VAT on the imported goods. As part of validating a claim by a customer for input VAT, the NBR reserves the right to contact the agent in order to view the original customs documents issued to the agent.

1.2. Exports of goods

1.2.1. Introduction

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 1.2.3 of this Guide.

1.2.2. Definition of an export of goods

An export of goods is a supply of goods with transport (i.e. a supply to which 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 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 1.2.3).

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 Bahrain VAT.

1.2.3. 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 1.2.4 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 10% rate (depending on the VAT rate applicable to the supply of the goods), and the supplier would be required to issue a new VAT invoice evidencing a domestic supply.

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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 VAT 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 VAT due date rules (see the "VAT 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 while 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 of 10%, 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 of 10%, unless they are covered by a specific zero-rate regime or a VAT exemption.

1.2.4. Documentation 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 on 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); and
- For 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, 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.

1.2.5. 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 1.2.4 of this Guide).

2. Imports and Exports of services

2.1. Introduction

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

2.2. Imports of services

2.2.1. Definition of 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 VATable person;
- Their place of supply for VAT is the place of residence of the recipient VATable person (Bahrain in this case);
- The recipient of the services, a VATable person in Bahrain, is the person liable to account for VAT on these supplies, in accordance with the reverse-charge mechanism (see section 2.2.2 for further detail).

In Bahrain, services typically regarded as "imported" services are those following the place of supply rule summarized as follows:

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 VATable 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 VATable person resident in Bahrain. If these supplies of services are subject to VAT in Bahrain at the standard rate of 10%, the person liable to account for VAT is the customer VATable 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 VATable person, the place of supply of these services is in Bahrain (i.e. the place of residence of the customer VATable person).

The consulting services are subject to VAT in Bahrain at the standard rate of 10% 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. If the consulting services were provided to a resident customer who is not a VATable 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. The services below follow their own special place of supply rules, which differs from the place of residence of the customer VATable person. That is the reason why these supplies are usually not considered as "imported" 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 services	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 of 10% (unless the services are zero-rated or VAT exempt). However, when the supplier is not a resident in Bahrain and the customer is a VATable person in Bahrain, the liability to apply the correct VAT treatment is shifted to the customer, who becomes liable 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 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 10%.

As the services are performed by a non-resident supplier to a customer which is a VATable 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. If the landscaping services were provided to a customer who is not a VATable 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.

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

Output VAT due

Under the reverse charge mechanism, the VAT liability for certain VATable supplies is shifted from the supplier to the customer VATable person. The customer becomes the one liable to account for the VAT due on the supply as output VAT and reports it in his VAT return for the VAT period during which the supply took place (in accordance with the VAT 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 VATable person in Bahrain from a supplier who is not resident in Bahrain; and
- Supplies of goods subject to VAT in Bahrain when purchased by a VATable person in Bahrain from a supplier who is not resident in Bahrain.

From a practical point of view, 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 VATable 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.

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

- The non-resident supplier must charge Bahrain VAT on his supplies of goods or services to customers who are not VATable persons.
- The non-resident supplier must not charge Bahrain VAT on his supplies of goods or services to customers who are VATable 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 VAT invoices for his supplies. When issued to customer VATable persons, the supplier must not charge VAT but may quote "supply subject to reverse-charge mechanism" on his VAT invoices.

Recovery of input VAT

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

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

Example

A VATable person resident in Bahrain receives legal services from a non-resident supplier. As the services are supplied to a VATable person resident in Bahrain, their place of supply is Bahrain (i.e. the residence of the customer VATable person). Under the VAT Law, such services are subject to VAT at the standard rate of 10%.

As the supplier is non-resident and the customer is a VATable person in Bahrain, the person liable for the VAT due on these services is the customer. 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 10% (i.e. BHD 2,000), will record this amount on the invoice received from the supplier and will also report it as output VAT due in his VAT return.

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

If the customer was only entitled to recover 50% of the VAT incurred on this business expenses, he would only recover BHD 1,000 input VAT in his VAT return (i.e. 50% of BHD 2,000). The net amount of VAT due by the customer to the NBR on this supply would therefore amount to BHD 1,000 (i.e. BHD 2,000 output VAT less BHD 1,000 recoverable input VAT).

2.3. Exports of services

2.3.1. Introduction

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.

2.3.2. 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, applying 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 be an export of services and be subject to VAT in Bahrain at the zero-rate provided the conditions are met, as detailed in section 2.3.3.

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 on 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 VATable 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

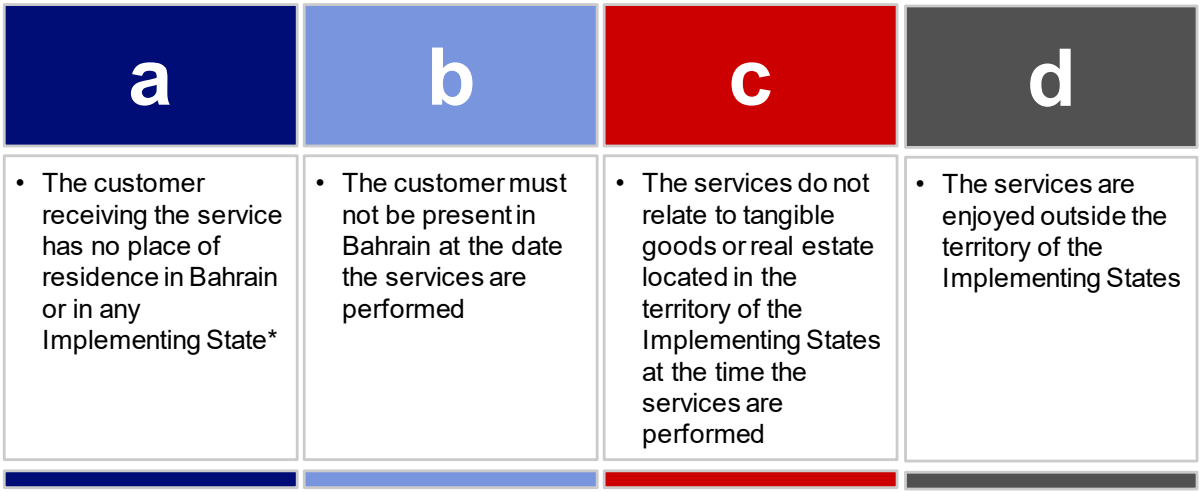
Supplies of services with a place of supply in Bahrain as a result of the application of a special place of supply rule, as explained in Articles 17 and 18 of the VAT Law, are not eligible to qualify as export of services (e.g. services related to real estate, restaurants and hotel services, transport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

Such services, when supplied in Bahrain, are subject to VAT at the standard rate of 10%, 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 Bahrain VAT.

2.3.3. Conditions for the zero-rate to apply

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



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

As described above, the resident VATable 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

The term “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, also must 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 facts 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 an 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). See the "Place most closely connected with a supply" section of the VAT General Guide for a discussion on this.

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 with, reports to and delivers 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 an 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 in 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 of 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 an 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 an export of services and should charge VAT at the standard rate of 10%.

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

Services related to tangible 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 real estate 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.

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

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

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

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

For the purposes of (d), enjoyed means 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, either by way of a fixed establishment or by way of one-off or temporary visitors. Also, it is currently not "commercially" present in 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, either through a place of residence in Bahrain or through a physical presence in Bahrain. These services are not related to tangible goods or 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 an export of services and apply VAT in Bahrain at the zero-rate.

If the French company was offering products to 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 an export of services.

If all of the above conditions are met, the services will qualify as export of services and the VATable 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 VAT invoices for these services. A VAT 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 VAT due date rules (see the "VAT due date rules" section in the VAT General Guide for further detail).