



VAT PULSE ... LIVE ISSUES

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Bahrain has implemented the first phase of VAT from January 1, 2019, making it the third Gulf Cooperation Council (GCC) country to implement VAT. While the National Bureau for Taxation (NBT) has issued a general guide and sector specific updates in addition to the Decree Law and Executive Regulations (VAT law), there remain several unanswered questions.

In this week's VAT Pulse, we have summarised:

- (i) Key issues faced by businesses in the first 3 weeks of VAT implementation; and
- (ii) Clarification provided by NBT in the recent workshop held for audit and advisory firms.

A. KEY ISSUES

1. ISSUANCE OF TAX INVOICE

Issuance of tax invoice (containing prescribed particulars) on supply (including deemed supply) of goods / services or receipt of partial or full consideration is a mandatory requirement under VAT law. Specific penalty has also been prescribed for failure to comply with the conditions and procedures for issuance of tax invoice.

In the recent weeks, one of the common errors made by businesses is issuance of incomplete invoices i.e. invoices, which do not meet the test of 'tax invoice'. Given the severe penalty regime for non-compliance, it is critical for businesses to ensure that IT systems are equipped to issue VAT compliant invoices including invoices on receipt of advance.

2. VAT ON IMPORTS

As per the VAT law, businesses have an option to defer payment of import VAT. This option was expected to be available for taxpayers from January 1, 2019.

However, this facility is not functional till date and importers are currently required to discharge VAT on importation along with customs duty, adversely affecting cash flow.

3. ZERO RATED FOOD LIST

The VAT law provides zero-rating benefit on supply of certain basic food items. NBT has issued multiple lists for food items eligible for such zero-rating treatment. The first list (in Arabic) captured 94 basic food items. This was followed by a list of 113 food items with item description and Harmonized System (HS) codes. Subsequently, NBT published a one-page flyer on food items subject to VAT at zero-rate in Arabic.

The multiple food lists being circulated in the public domain has created confusion within the industry, since the documents are not consistent. Hence, it is very important that businesses obtain clarity and charge the correct rate of tax.

4. LIST OF GOVERNMENT ENTITIES

In respect of contracts entered prior to VAT implementation, the VAT law provides benefit of zero rating for supplies made to government. In the clarificatory general guide, 'government' has been defined to include Ministries, Government agencies, institution and public bodies. In absence of a similar definition of 'government' under VAT law, businesses are grappling with tax rate (zero-rate / standard rate) to be applied.

5. RETENTION PAYMENTS

Applicability of VAT on retention payments is a matter of debate especially within the construction, engineering and real estate sector. For example, if a construction company engaged in construction of road has received work completion certificate of 100 BHD and the construction contract provides for 5% retention on each certification, the question arises as to when will VAT be due to the government on retention. Whether it should be charged on BHD 100 or BHD 95 (100 less 5% retention).

Recent update issued by NBT specifies that clarity on taxability of retention payments would be provided shortly.

6. IMPORTS FROM UAE and KSA

The GCC countries are in the process of developing Electronic Service System (ESS) which will be applied to all member states. However, until it is implemented, intra-GCC supplies will be treated like any other supply of goods or services to a country outside GCC.

As of today, businesses in UAE / KSA are charging VAT (based on place of supply rules) on supplies to customers in Bahrain. This may lead to a scenario where supplies may not qualify as exports (for the supplier in UAE / KSA and taxed as domestic supplies) and are also taxed in Bahrain on imports.

It is important to watch out for such invoices where, businesses in UAE and KSA are charging country specific VAT on export of goods or services to Bahrain.

B. NBT INSIGHTS

Key insights from the recent NBT workshop with audit and advisory firms on January 21, 2019 are summarized below:

- Return format will be issued shortly.
- Specific guidelines will be issued for:
 - o Digital Economy
 - o Financial Services
 - o Group Registration
 - o Imports and Exports
 - o Non-Resident Registration
 - o Oil and Gas
 - o Real Estate
 - o Tax Agents and Representatives
- Tax group registration will be applicable from February 1, 2019.
- Additional services will be added to the list of 1400 Government Services released by NBT which are not subject to VAT.
- Penalty will not be imposed for not charging VAT, if VAT Registration Certificate is received later with effective date of registration as January 1, 2019.

BDO Comments

Considering the above uncertainties, it is advisable for all businesses to obtain timely VAT advice and streamline processes to ensure smooth implementation of VAT.

BDO has the right blend of experience, technical expertise and commercial understanding to deliver highly effective assistance in the areas highlighted above. We are pleased to announce that NBT has listed us amongst the audit firms licensed by the Ministry of Industry, Commerce and Tourism to support businesses conform with VAT requirements (https://www.nbt.gov.bh/licenced_acc).

We would be happy to support you to ensure smooth implementation of VAT. Please write to us at vatservices@bdo.bh or reach out to our VAT team members for any assistance in relation to Bahrain VAT.

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