

KINGDOM OF BAHRAIN

VAT DIGITAL ECONOMY GUIDE

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الجهاز الوطني للإيرادات
National Bureau for Revenue

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1. Introduction

1.1. Purpose of this Guide

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

- An overview of the VAT rules and procedures in Bahrain in relation to the digital economy sector and, if required, how to comply with them
- The necessary background and guidance to help you to determine how a supply is treated for VAT purposes

This Guide is intended to provide general information only and contains the current views of the National Bureau for Revenue (NBR) on its subject matter. No responsibility is assumed for the VAT laws, rules or regulations in the Kingdom of Bahrain. This Guide is not a legally binding document and does not commit the National Bureau for Revenue or any taxpayer in respect of any transaction. This document should be used as a guideline only and is not a substitute for obtaining competent legal advice from a qualified professional.

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

1.2. About the National Bureau for Revenue (NBR)

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

1.3. Bahrain legal framework for VAT

VAT in Bahrain is codified under the following texts:

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

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

2. Value Added Tax (“VAT”)

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

2.1. What is VAT?

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

Generally, VAT applies at 5% if a supply of goods and services is made:

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

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

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

2.2. How does VAT work?

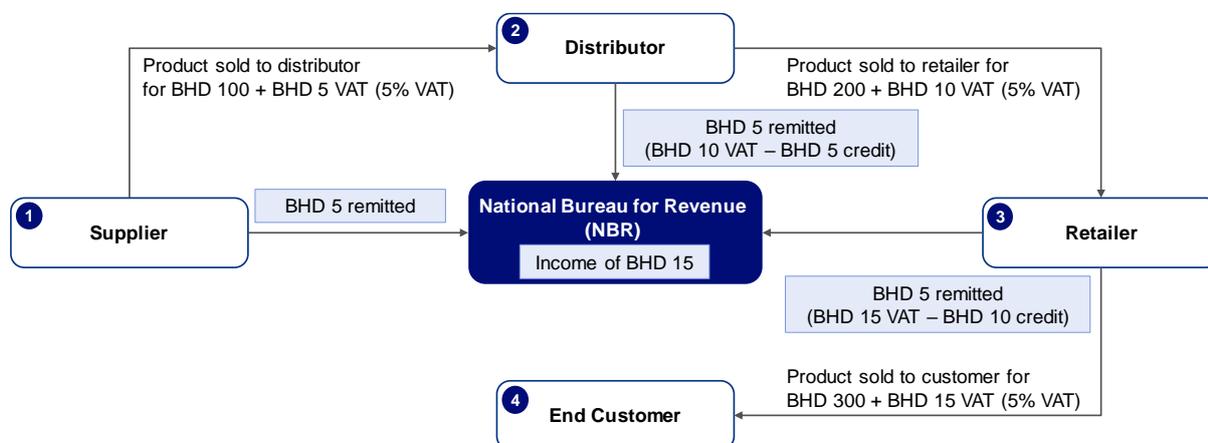
If, as a VAT registered person, you make taxable supplies (i.e., supplies of goods or services subject to VAT), you must charge VAT on your supplies, and pay it to the NBR. This is your “output tax”.

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

As a VAT registered person, you can reclaim from the NBR the input tax incurred on your purchases and imports to the extent that these expenses and imports are used to make taxable supplies. You cannot reclaim the VAT incurred on expenses used for a non-business activity or for making exempt supplies (i.e., supplies of goods or services that are not subject to VAT due to a specific VAT exemption).

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

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

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 transactions in the digital economy sector 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 State 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. E-commerce: Goods

An e-commerce of goods involves the sale of goods through an online platform, for example, the purchase of clothes or shoes through a website.

4.1. Application of VAT on the e-commerce of goods

If goods are located in Bahrain, the sale of goods using an online platform (e.g., a website) by a taxable person to a customer in Bahrain will be taxable at the standard rate, unless the supply is specifically exempt from VAT or zero-rated.

If goods are located outside of Bahrain, the sale of the goods using an online platform (e.g., a website) by a person located outside of Bahrain (i.e., a non-resident supplier) to any customer in Bahrain will be outside the scope of Bahrain VAT if the customer is the importer of record for the goods. Import VAT will be paid on the goods to the Customs Affairs Department at the point of entry, unless the goods are specifically exempt from import VAT. There will therefore be two aspects of the transaction that will need to be considered:

1. The sale of the goods by a person located outside of Bahrain (i.e., a non-resident supplier) to a customer in Bahrain who is the importer of record for the goods – outside the scope of Bahrain VAT
2. The import of the goods into Bahrain by the Bahraini customer – subject to import VAT at the time of import, unless the goods are specifically exempt from import VAT

Table 2 summarises the VAT treatment of e-commerce transactions relating to goods. The VAT treatment set out will apply where the goods are taxable at the standard rate when imported into Bahrain. When goods are exempt from VAT at the time of import, the relevant VAT implications will need to be considered further.

The below assumes that the goods being sold are in the country in which the supplier is located.

Table 2: VAT treatment of e-commerce transactions

	Supply to (Customer)	Place of supply	VAT treatment
Taxable person in Bahrain	Customer in Bahrain	Bahrain	Standard rated
	Customer outside of Bahrain	Bahrain	An export of goods will be taxable at the zero-rate*

* This assumes that the conditions for zero-rating an export of goods are met (timeline and documentation) as covered in the "Export of goods" section of the VAT General Guide.

	Supply to (Customer)	Place of supply	VAT treatment
Non-resident supplier	Taxable person in Bahrain	Bahrain, when the goods are imported	The supply by the non-resident supplier will be outside the scope of Bahrain VAT. Import VAT will be payable by the taxable person (either at the time of import or through the deferral mechanism).
	Non-registered person in Bahrain	Bahrain, when the goods are imported	The supply by the non-resident supplier will be outside the scope of Bahrain VAT. Import VAT will be payable by the customer at the time of import.

4.2. Place of supply

The general place of supply rules for goods will depend on factors including whether the supply includes a transport of the goods or their installation. For goods supplied without transportation and without installation, the place of supply is where the goods are placed at the disposal of the customer. For goods supplied with transportation, the place of supply is where the transport starts. This applies whether the transport is carried out by the seller, the purchaser or a third party on their behalf.

These normal place of supply rules for supplies of goods will apply for e-commerce transactions. Where the place of supply is Bahrain, Bahrain VAT Law will apply.

When the place of supply for a supply of goods is outside of Bahrain, Bahrain VAT may still be charged at the time the goods are imported into Bahrain.

Please see the “Place of supply” section of the VAT General Guide for further details on the rules on the place of supply of goods.

4.3. VAT treatment for e-commerce transactions (goods)

4.3.1. The supplier is a taxable person

If the supplier is a taxable person, the supplier will need to consider if the goods will be delivered in Bahrain or outside of Bahrain.

Goods delivered to a customer in Bahrain

Where a taxable person makes a supply of goods in Bahrain that are delivered to a customer in Bahrain, this supply will be taxable at the standard rate, unless the supply is specifically exempt from VAT or zero-rated.

Example

Hasan lives in Bahrain and buys clothes from Company A's website. Company A is established in Bahrain and is registered for VAT. The clothes will be delivered to Hasan's home address in Bahrain.

The sale of the clothes will be taxable at the standard rate as the goods are sold by a taxable person and delivered in Bahrain.

Goods delivered to a customer outside of Bahrain

If the conditions for an export of goods (see the "Exports of goods" section of the VAT General Guide for further details) are met, the supply of goods by the taxable person will be taxable at the zero-rate.

4.3.2. Non-resident suppliers

Typically, on transactions where a non-resident supplier ships goods to a Bahraini customer, the importer of record will be the customer or clearing agent, who is acting on behalf of the customer who has purchased the goods.

If the customer / clearing agent acting on behalf of the customer is the importer of record, the supply of goods from the non-resident supplier to the customer will be outside the scope of Bahrain VAT. Import VAT will be payable at the time of import into Bahrain, unless the goods are specifically exempt from VAT.

a. If the customer is a taxable person

If the customer is a taxable person, he / she will pay and / or account for VAT on the import of the goods. If the purchase of the goods relates to the taxable person's taxable activities, it can recover the import VAT through its tax return.

Example

Company A is established in Bahrain and is registered for VAT. It purchases new laptops from Company B's website. Company B is a Japanese company and has no presence in Bahrain.

When the goods are imported into Bahrain, Company A is the importer of record.

The supply by Company B of the laptops to Company A is outside the scope of Bahrain VAT.

Company A will pay the import VAT at the time of importation as the importer of record. This VAT will be recoverable through its tax return if the purchase of the laptops relates to Company A's taxable activities.

b. If the customer is a non-registered person in Bahrain

If the customer is a non-registered person in Bahrain, the customer will be liable to pay the import VAT at the time the goods are imported into Bahrain. Typically, an agent will import the goods on behalf of the person who is not registered for VAT in Bahrain and that agent will be responsible to pay the VAT due on the import. See section 5.2 of this Guide for further details on agents acting on behalf of a non-registered person.

Example 1

Abeer (an individual who lives in Bahrain and is not VAT registered) purchases clothes from an online retailer who is based in Germany (Company A). Company A has no presence in Bahrain and is not VAT registered in Bahrain.

Company A uses a delivery company (Company B) to deliver the goods from Germany to Abeer's home in Bahrain. They will also clear the goods through Bahrain Customs Affairs as a clearing agent.

Company B will be the importer of record and will be responsible to pay the import VAT. Under the commercial arrangements, they will be reimbursed for this VAT directly from Company A.

Company B will not be entitled to claim the import VAT paid through its tax return as it does not relate to its business activities.

Example 2

Company A is a company established in France that sells kitchen appliances through its online website.

Yousef purchases kitchen appliances that will be delivered to his home in Bahrain. Company A contracts with a local logistics company in Bahrain (Company B) to assist with the import of the goods into Bahrain. Company B makes the payment of import VAT due on the goods at import in Bahrain. As the goods imported do not relate to its business activity, Company B cannot recover the import VAT paid.

Company B will then recharge the cost to either Company A or Yousef, depending on the commercial arrangements agreed. The recharge will not be a taxable transaction from a VAT perspective as the payment of the VAT on behalf of Company A or Yousef is a disbursement for VAT purposes.

4.4. Tax due date

Why is the tax due date important?

The tax due date is important to ensure that VAT is accounted for in the correct period and tax invoices are raised within the timeframes set out in the VAT Law.

How is the tax due date determined?

The tax due date (or date of supply) for a supply of goods will be the earliest of:

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

The date of the supply of the goods is:

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

See the “Supplies of goods and services” section under the “Value of supply and tax due date” section of the VAT General Guide for further details on the tax due date for a supply of goods.

Example

Company A is established in Bahrain and is registered for VAT. It sells kitchen accessories on its website. On 5 January 2019, Mohammed ordered kitchen accessories which cost BHD 20. When placing the order online, Mohammed also makes payment through the website (which was received by Company A on the same day) and a tax invoice is sent to Mohammed on 6 January 2019.

It is expected that the goods will be delivered on 10 January 2019.

The tax due date of the supply is 5 January 2019 as the payment is received by Company A on this date.

Transitional provision

If a supply of goods is made (i.e., delivered and title in the goods transferred from the supplier to the customer) after 1 January 2019, a taxable person will need to account for the VAT (where relevant) and raise a tax invoice for the supply. This will be the case even when the order is placed and / or the payment is received before 1 January 2019. See the “Transitional rules” section of the VAT General Guide for more details on the transitional rules.

If goods are imported after 1 January 2019, import VAT will be payable on the importation of the goods in Bahrain by the importer of record.

Example

Company A is established in Bahrain and is registered for VAT. It has a website on which it sells gym equipment.

Amina places an order on the website on 29 December 2018 and makes payment on the same date. The payment is received by Company A on 30 December 2018. The goods are delivered to Amina on 2 January 2019.

As the delivery of the goods takes place after the effective date of VAT (i.e., 1 January 2019), Company A's sale of the gym equipment will be taxable at the standard rate.

4.5. Single and multiple supplies

When a supplier makes a supply that comprises more than one component (e.g., goods and a service), the supplier will need to assess whether its supply is a single composite supply or multiple supplies. See the “Single composite and multiple supplies” section under the “VAT treatment in Bahrain” section of the VAT General Guide to determine if a supply is a single composite supply or multiple supplies.

Example

Company A is established in Bahrain and is VAT registered. It sells personalised gifts (for example, jewellery, stationery etc.) through its website.

Ahmed, who lives in Egypt, purchases a notebook from Company A's website and for the same price (i.e. no additional charge), Company A will personalise the front cover with a message drafted by Ahmed. The price of the notebook and the personalisation service cannot be identified separately and, as such, this will be considered as a single supply of goods for VAT purposes.

The supply should be taxable at the zero-rate assuming that the conditions for zero-rating, as per the "Export of goods" section under the "VAT treatment in Bahrain" section of the VAT General Guide are met.

4.6. Bundled supplies

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

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

See the "Deemed supply" section under the "Transactions within the scope of VAT" section of the VAT General Guide for further details on bundled promotions.

Example

Company A is established in Bahrain and registered for VAT. It sells clothes on its website. As part of its end of year sales, it runs a promotion where a customer who buys three items will receive one item for free.

On the basis that the goods are offered to customers as part of a commercial promotion and the customer is required to purchase three items in order to benefit from the free item, the free item of clothing will not be a separate supply for VAT purposes. The consideration for the entire supply will be equal to the value of the three items purchased and VAT at the applicable rate will apply on this value.

4.7. Consignment stock

Some businesses will sell goods online under a consignment stock arrangement. Under this type of arrangement, goods remain under the ownership of the supplier and these are only sold to the business selling the goods online when they are sold to the final consumer.

Under these arrangements, there are two supplies for VAT purposes – one from the supplier to the business selling the goods online and another from the business selling the goods online to the final consumer.

See the “General tax due date rules” section under the “Value of supply and tax due date” section of the VAT General Guide for details on the date of supply rules for consignment stock.

Example

Company A and B are both established in Bahrain and registered for VAT. Company A sells TVs and gives 10 TVs to Company B for it to sell on its website under a call-off (consignment) stock arrangement.

The ownership of the TVs remains with the supplier until the time when they are sold by Company B to the final customer.

At the time the goods are sold by Company B to the final consumer, there is also a simultaneous supply of the TV from Company A to B. These transactions will be two separate supplies for VAT purposes:

- 1. A sale of a TV from Company A to B*
- 2. A sale of a TV from Company B to final consumer*

Both Company A and B will each need to account for the VAT at the standard rate on the supply that it makes.

4.8. Return or refunds

The VAT implications of a return or refund of goods will depend on the VAT treatment of the original supply.

If the original supply was taxable and a tax invoice was issued, a tax credit note will need to be issued and an adjustment of the tax made (where VAT was originally charged). See the “Adjusting a tax invoice” section under the “Tax invoices” section of the VAT General Guide for details on adjusting a tax invoice and the requirements of a tax credit note.

If goods were originally exported (and met the conditions for zero-rating) and were later returned back to a taxable person in Bahrain, the import of the returned goods previously exported will be exempt from import VAT.

If goods are imported into Bahrain and then either returned to the non-resident supplier or refunded, please see section 5.4 of this Guide.

Example

On 15 February, a tax registered supplier (Company A) based in Bahrain sells online goods to a customer in Bahrain for BHD 100, and charges VAT of BHD 5. Payment is made by the customer and received by Company A on the same day. The customer is entitled to return the goods within three weeks. The tax due date is triggered at the time of the sale (15 February). Assuming that the supplier is in a monthly tax period, he is required to report the output tax in his tax return for the tax period for February.

After receiving the goods, the customer is not satisfied with the goods and decides to ship them back to the supplier on 1 March together with a request for a refund. Once the returned goods have been accepted by the supplier and the refund is authorised, the supplier is required to issue a tax credit note. Both the supplier and the customer (to the extent VAT registered) will be required to adjust their tax returns accordingly based on the tax credit note.

5. E-commerce: Import of Goods

5.1. Application of VAT on the import of goods

An import of goods is the entry of goods into Bahrain from a place outside of Bahrain, where the goods are cleared through customs (i.e., not placed under a customs duty suspension regime).

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

Where relevant, Customs Affairs will calculate VAT due at the point of entry of the goods into Bahrain. If the goods are taxable at the standard rate, import VAT will be payable before the goods are released by Customs Affairs (unless a taxable person is the importer of record and has a deferral mechanism in place). See the “Payment of the VAT due on an import of goods” section under the “Imports and Exports of goods” section of the Imports and Exports VAT Guide for further information on import VAT.

5.2. Non-registered persons: obligations on delivery companies

Generally, where goods are imported as part of an e-commerce transaction and where the seller and / or recipient is a non-registered person, the goods will be imported through an agent registered for VAT on behalf of the recipient or seller. The registered agent will be liable to pay VAT due on the import of goods and will recharge the VAT to the end recipient. The recharge of VAT due to the customer will not be subject to VAT.

The registered agent will not be able to recover the VAT incurred on importing goods on behalf of another person.

5.3. Taxable persons: documentation retained for recovery of input VAT

A taxable person who is registered for VAT in Bahrain can claim the VAT paid on imports of goods provided the conditions for input tax recovery, as set out in the VAT Law and the Executive Regulations, are 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).

See the “Recovery of the VAT paid on import of goods” section under the “Imports and Exports of goods” section of the Imports and Exports VAT Guide for further details on recovery of input tax on VAT paid on imports.

A taxable person must keep the relevant customs / import documentation as evidence of the import in order to recover the VAT charged on the import of goods. See the “Record keeping” section of the VAT General Guide for further details on record keeping requirements.

5.4. Return or refund of goods

Import VAT is due when goods are imported into Bahrain, unless the goods are specifically exempt from import VAT. If, after the goods have been imported, the goods are either returned to the supplier or refunded, the VAT paid at import will not be adjusted, unless the return or refund triggers an adjustment of the customs value of the import.

Therefore, a taxable person who has paid import VAT on goods that are then returned or refunded will need to consider whether or not it can recover the VAT paid on the import subject to the normal input tax recovery rules.

For non-registered persons, the import VAT paid would not be refundable.

6. Electronic services

Electronic services are services provided over the internet or any electronic platform, and which operate in an automated manner with limited human intervention and which are impossible to complete without the use of information technology. For example, the purchase of films on the internet.

6.1. Application of VAT on electronic services

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

When, in the future, Bahrain considers one or more of the other GCC Member States as Implementing States for VAT purposes, the rules below in relation to electronic services will continue to apply.

6.2. Summary of VAT treatment for electronic services

The VAT treatment of electronic services will depend on the place of supply. Electronic services with a place of supply in Bahrain will be taxable unless specifically exempt from VAT or zero-rated.

On the basis that the supply is taxable at the standard rate if ordinarily provided in Bahrain, the following will apply:

Table 3: VAT treatment of electronic services

	Supply to (Customer)	Place of supply	VAT treatment
Taxable person in Bahrain	Taxable person in Bahrain	Bahrain	Standard rated (5%)
	Non-registered person in Bahrain	Bahrain	Standard rated (5%) when the services are used and enjoyed in Bahrain
	Customer outside of Bahrain	The location where the services are used and enjoyed	Outside the scope of Bahrain VAT if the services are used and enjoyed outside of Bahrain

	Supply to (Customer)	Place of supply	VAT treatment
Non-resident supplier	Taxable person in Bahrain	Bahrain	<p>The supply by the non-resident supplier will be outside the scope of Bahrain VAT.</p> <p>The reverse charge mechanism will apply. The customer will self-account for VAT at the standard rate through its tax return.</p>
	Non-registered customer in Bahrain	The location where the services are used and enjoyed	Standard rated when the services are used and enjoyed in Bahrain*.

* A non-resident supplier must register for VAT in Bahrain as soon as it starts making taxable supplies in Bahrain when no-one else is liable to account for the VAT due on those supplies.

6.3. Definition of electronic services

Electronic services are services provided over the internet or any electronic platform, and which operate in an automated manner with limited human intervention and which are impossible to complete without the use of information technology. Electronic services include, but are not limited to, the following:

- Services that provide or support an electronic network, including a website or web page on the internet
- Digital products, including computer programs and any changes or updates to software programs
- Services automatically generated by a computer over the internet or an electronic network, as a response to specific data inputs by the receiver
- Internet services software for information that allows the communications component to provide an assisting element, for example components that allow access to news, weather or travel reports, web hosting, online discussion and others
- Supply of a website domain, web hosting and remote maintenance of software and equipment

- Supply of visual content, such as images or texts that are automatically supplied, screensavers, electronic books and other documents and digital files
- Electronic supply of music, films, television series, games, magazines, newspapers, or other programs upon request
- Provision of advertising on websites and advertising space on websites and any rights associated with such advertising
- Provision of online educational services, and
- Supply of computer programs and updates.

Some services, although provided electronically will not be regarded as electronic services for VAT purposes. These services include but are not limited to the following:

- A supply of services over the internet that requires significant human intervention. These include, for example, professional consultancy services delivered via email, educational or professional courses where an individual is delivering the services in real time and this is broadcasted live over an electronic network
- Online booking services for hotels, car hire, tickets for entertainment events or other similar activities
- Online repair services that are remotely provided for computer equipment
- The supply of tangible products, for example goods that are ordered and sold online

For services that are not considered as electronic services for VAT purposes, the normal VAT rules for supplies of services will apply.

6.4. Place of supply, use and enjoyment provisions

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

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

Customer is a taxable person

If the customer is a taxable person, the place of use and enjoyment is the place of residence of the customer. The following should be used to identify the place of residence of such a customer:

- The customer's address as stated on a tax invoice or other documents used for billing
- Details of the customer's bank account
- The Internet Protocol (IP) address used to receive the services
- The country code of the SIM card used to receive the services

- Any other information of a commercial nature (for example, the country settings on an app used)

Example

Company A is established and registered for VAT in Bahrain. It purchases an online subscription from Company B for access to an online financial news portal. Company B is registered in the UK with no presence or establishment in Bahrain.

Company A's address, as per the contract, is in Bahrain and the payment for the services is made from Company A's Bahrain bank account.

The place of supply for the services will be Bahrain as Company A's address as per the contract and invoice is Bahrain. Company A would therefore account for Bahrain VAT on these supplies under the reverse charge mechanism.

If there is more than one place of residence of the customer, the place of residence that is most closely connected to the services will be considered as the place of supply.

Where it is not possible to identify the place of residence that is most closely connected to the services, the place of supply will be Bahrain if one of the place of residences of the taxable person is Bahrain.

Example

Following on from the previous example, Company C purchases the same online subscription from Company B for access to the online financial news portal.

Company C is established and registered for VAT in Bahrain and has branches across the GCC, including the Kingdom of Saudi Arabia, the United Arab Emirates and Oman.

The financial news portal will be used by Company C's staff across all offices in the GCC. Company C's address, as per the contract, is its Bahrain office and the payment for the services is made from Company C's Bahrain bank account.

The place of supply for the services will be Bahrain as Company C's Bahrain office will be considered as the place of residence most closely related to the services.

If it is not possible to identify the place of residence that is most closely connected to the services, Bahrain VAT Law will apply on the basis that Bahrain is one of the places of residences of Company C.

Customer is a non-registered person

If the customer is not registered for VAT in Bahrain, the place of use and enjoyment is the place where the customer actually uses and enjoys the service. The place where the contract with the customer is executed and the place where the customer pays for the service are not relevant.

Example 1

Esra lives in Bahrain and purchases an online subscription from Company A for unlimited access to films through an app each month.

This will be an electronic service and the place of supply will be where the services are used and enjoyed. As Esra uses the app in Bahrain, the place of supply will be Bahrain.

If Esra watches a film whilst outside of Bahrain, the services will be deemed to be used and enjoyed outside of Bahrain. Therefore, the place of supply will be country where Esra watches the film.

Example 2

A hotel in Bahrain charges Esra for the use of its Wi-Fi services.

As the Wi-Fi is limited to use in the hotel, it will be used and enjoyed in Bahrain and thus the place of supply will be Bahrain.

6.5. VAT treatment of electronic services

If the place of supply of electronic services is Bahrain, Bahrain VAT Law will apply.

Supplies by a person established in Bahrain

Electronic services supplied by a person established in Bahrain that are used and enjoyed in Bahrain will be taxable at the standard rate, unless the services are specifically exempt from VAT or zero-rated.

The normal registration thresholds will need to be considered by the business to determine if it needs to register for VAT in Bahrain. See the “When must I register for VAT?” section under the “Taxable persons and VAT registration” section of the VAT General Guide for further details on the registration thresholds.

Example 1

Company A is established and registered for VAT in Bahrain. It sells website domain services to customers both in and outside of Bahrain.

Company B is established and registered for VAT in Bahrain. It purchases website domain services from Company A.

The place of supply of the services will be Bahrain and Company A should charge VAT at the standard rate on its supply of website domain services to Company B.

Example 2

Following on from the previous example, Company A sells website domain services to Company C who is established outside of Bahrain.

The place of supply of the services will be where the customer is located and, in this case, it will be outside of Bahrain. As the place of supply of the services is outside of Bahrain, Company A's supply of website domain services will be outside the scope of Bahrain VAT.

Supplies by a non-resident person

The VAT treatment of supplies by a non-resident person will depend on whether the customer is a taxable person or a non-registered person in Bahrain.

a. The customer is a taxable person

Electronic services that are purchased by a taxable person in Bahrain from a supplier who is not resident in Bahrain will be subject to VAT under the reverse-charge mechanism, unless the services are specifically exempt from VAT or zero-rated. This is on the basis that the place of supply of the services is Bahrain.

The “Reverse-charge mechanism for supplies made by non-resident suppliers” section under the “Persons liable to pay VAT” section of the VAT General Guide and the “Imports of services” section under the “Imports and exports of services” section of the Imports and Exports VAT Guide sets out further details on the reverse-charge mechanism for supplies made by non-resident suppliers.

A non-resident supplier is not required to register for VAT in Bahrain if it only makes supplies of electronic services to customers who are taxable persons for Bahrain VAT purposes.

If a non-resident supplier is registered for VAT in Bahrain as a result of its supplies to non-registered persons in Bahrain (see below), supplies to taxable persons in Bahrain will remain subject to the reverse charge mechanism.

A compliant tax invoice should be issued by the non-resident supplier with a clear description that the taxable person must account for tax on the supplies under the reverse charge mechanism.

Example

Company A is established in France and sells subscriptions to its online magazine for medical professionals. Company B is established and registered for VAT in Bahrain and purchases an annual subscription for its staff, which is used for its business activities.

The place of supply of the services will be Bahrain, as it is the place of residence of the customer taxable person (i.e., Company B). Company B will account for Bahrain VAT on the purchase of these services through the reverse charge mechanism. Further, Company B can recover the VAT accounted for under the reverse charge mechanism on the basis that it relates to its business activities.

b. Customers who are non-registered persons in Bahrain

Electronic services by a non-resident supplier to a non-registered person that are used and enjoyed in Bahrain will be taxable at the standard rate, unless the services are specifically exempt from VAT or zero-rated.

A non-resident person who makes taxable supplies in Bahrain must register for VAT in Bahrain as soon as he starts making taxable supplies in Bahrain if no one else is liable to account for the VAT due on those supplies.

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

The “Mandatory VAT registration” section of the “Taxable persons and VAT registration” section of the VAT General Guide provides further details on mandatory registration for non-residents.

Example

Company A is established in the United Kingdom and sells subscriptions for its online fashion magazine. All of its customers in Bahrain are individuals who are not registered for VAT in Bahrain.

The place of supply of the services will be Bahrain on the basis that the services are used and enjoyed in Bahrain. As there will be no one else liable to account for the VAT due on these supplies, Company A will be required to register for VAT in Bahrain. From the effective date of registration, Company A must account for VAT on its services to non-registered customers if these services are used and enjoyed in Bahrain.

6.6. Online educational services

Where online educational services fall within the definition of an electronic service, the place of supply rules set out in section 6.4 of this Guide will apply.

In order for online educational services to be regarded as electronic services for VAT purposes, they must be services provided over the internet or any electronic platform, operate in an automated manner with limited human intervention and be impossible to complete without the use of information technology. This would therefore not include education services that are provided remotely to students where there is direct interaction between the presenter and the students, for example video-conferencing or live streaming of classes through a website or mobile application.

The supply of online educational services will be zero-rated where the conditions for the zero-rating of educational services are met – i.e., the online educational services are:

- educational services by a kindergarten, pre-primary, primary, secondary or a higher education institution
- the institution is licensed by a competent authority in Bahrain, and

- the services are provided directly to a student in Bahrain that is enrolled in that institution.

If the zero-rating provisions do not apply, the online educational services will be taxable at the standard rate if the place of supply is Bahrain.

See the “Education services” section under the “VAT treatment in Bahrain” section of the VAT General Guide for more details on the zero-rating provisions for educational services.

Example 1

Company A is a non-resident supplier in Bahrain and runs a number of online educational courses for non-registered persons in Bahrain. These courses are pre-recorded and available for the student to watch at any time. There is no interaction with a tutor or presenter at that time.

As the services are provided through an online platform and involve limited human interaction, they are electronic services. The place of supply is therefore determined by the use and enjoyment rules. As the customer is a non-registered person in Bahrain and uses and enjoys the services in Bahrain, the place of supply will be Bahrain.

On the basis that Company A is not licensed by the competent authority in Bahrain, its provision of online educational courses will be taxable at the standard rate.

As a non-resident supplier, there is no minimum registration threshold. Company A must therefore apply to register for VAT with the NBR within 30 days of its first supply in Bahrain for which it is required to pay tax.

Example 2

Continuing from the previous example, Company A is now licensed by the competent authority in Bahrain and as such the services will fall under the zero-rating provisions for educational services.

As a non-resident supplier, there is no minimum threshold and Company A will need to register for VAT with the NBR within 30 days of its first supply in Bahrain for which it is required to pay tax.

If it makes only zero-rated supplies in Bahrain, it may be able to apply for an exemption from VAT.

6.7. Tax due date

Why is the tax due date important?

The tax due date is important to ensure that VAT is correctly accounted for in the correct period and tax invoices are raised within the timeframes set out in the VAT Law.

How is the tax due date determined?

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

6.7.1. Tax due date for one-off supply of electronic services

The tax due date for a one-off supply of electronic services will be determined by the tax due date rules in Article 12(A) of the VAT Law, i.e., the earliest of the following:

- a. Receipt of payment
- b. Completion of the services
- c. The issue of a tax invoice

Example

Company A sells access to online films. On 15 January 2019, Mohammed pays a one-off fee to watch a specific film which he watches on the same day. Company A receives the payment on 15 January 2019 and a tax invoice is issued on 16 January 2019.

The tax due date will be the 15 January 2019, as it is the date when the payment is received and the services are completed.

6.7.2. Tax due date for continuous supply of electronic services

For many electronic services, customers buy a subscription for a specific period of time. This may involve periodic payments (for example, on a monthly basis). These supplies will meet the conditions of a continuous supply of services for VAT purposes.

The tax due date for electronic services that are regarded as continuous supplies for VAT purposes will be the earliest of the following:

- a. The date of issue of a tax invoice or equivalent document
- b. The due date of payment of the amount specified in the tax invoice
- c. The date of receipt of payment

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

See the “Special tax due date rules” section under the “Value of supply and tax due date” section of the VAT General Guide for more details on continuous supplies.

Example

Company A provides annual subscriptions to customers for access to a large number of films and television programs through its app. All of its customers in Bahrain are non-registered persons and payment for the subscription is made on a monthly basis. On every 15th of the month, the payment is automatically debited from the customer's bank account and received by Company A on the same day. It then issues a tax invoice to the customer on the 17th of each month by email.

As the services are a continuous supply of electronic services, the tax due date will be the 15th of the month (i.e., the date the payment is received).

6.7.3. Transitional rules

Where a supply of electronic services spans the effective date of VAT (i.e., 1 January 2019), a taxable person will need to determine the value of the supply after 1 January 2019, account for the VAT (where relevant) and raise a tax invoice for the supply.

See the “Transitional rules” section of the VAT General Guide for more details on the transitional rules.

Example

Company A is a taxable business that sells software services to customers in Bahrain. Under current contracts, customers will sign up to an annual contract which gives them use of the software and a charge is made at the start of each year.

One contract with a customer was signed on 1 September 2018 and relates to software services from 1 September 2018 to 31 August 2019.

As a continuous supply of electronic services, VAT will be due on the services provided after the effective date of VAT (i.e., 1 January 2019). Company A will therefore need to account for VAT at the standard rate on the proportion of the consideration received that relates to the eight months after 1 January 2019.

6.8. Single and multiple supplies

When a supplier makes a supply that is made of more than one component (e.g., goods and a service), the supplier will need to assess whether its supply is a single composite supply or a multiple supply.

When this involves a component that is an electronic service, businesses should consider the rules set out in the “Single composite and multiple supplies” section under the “VAT treatment in Bahrain” section of the VAT General Guide to determine if its supply is a single composite supply or a multiple supply.

Example 1

Omar signs a contract for a monthly magazine from the United Kingdom that will be posted to him in Bahrain every month. As part of the sale, Omar has access to the online magazine on the company's website. This is for the same price and there is no charge for the additional service provided.

This will be considered as a single composite supply of the sale of magazines and the electronic services provided (i.e., access to the online magazine). The VAT treatment will therefore be determined based on the main supply (i.e., the sale of the magazine).

Example 2

Continuing from the previous example, Omar receives both the physical magazine on a monthly basis and access to the online magazine.

He pays an additional amount to have access to the online subscription.

The electronic services (i.e., online access to the magazine) will be considered as a separate supply of electronic services and the place of supply rules and VAT treatment of these services will need to be considered separately.

7. Supplies through an agent or intermediary

The term “agent” is not defined in the VAT legislation. From a commercial perspective, an agent is a person who acts on behalf of another person (e.g., a supplier or customer) in relation to a specific supply.

7.1. Supplies made through an agent

Supplies may be made by an agent who acts as a disclosed or undisclosed agent. See Appendix B of the VAT General Guide for further details on disclosed and undisclosed agents.

7.1.1. Disclosed agent

A disclosed agent is an intermediary who acts in the name and for the account of another person. The buying and selling parties know the identity of each other and contract directly between themselves for the supply. The disclosed agent simply facilitates the conclusion of the contract / supply.

For VAT purposes, there are two separate transactions:

- A supply of goods or services directly between the supplying party and the buying party; and
- A supply of agency / intermediary services between the disclosed agent and the person he represents (i.e., either a buyer or a seller).

Example

Company A sells software licenses and wants to increase its sales in Bahrain. To assist on this, Company A appoints an agent who will research the market and approach potential customers on its behalf. The agent finds a potential buyer who wants to purchase the software license from Company A.

The contract is directly between Company A and the final customer and the agent will issue an invoice for its services to Company A.

In this case, the agent is acting as a disclosed agent in the name and on behalf of Company A. If the agent is a taxable person, the Bahrain VAT implications of its services to Company A will need to be considered.

7.1.2. Undisclosed agent

An undisclosed agent is an intermediary who acts in his own name but for the account of another person, i.e., the agent acts in his own name but for the account of either the person actually supplying the goods or services or the person actually requiring the goods or services.

The undisclosed agent is interposed between the supplying party and the receiving party and these do not know the identity of each other and do not contract directly. The undisclosed agent enters into a contract, in its own name, with respectively the supplier and the buyer.

The undisclosed agent is considered to be acting as a principal in the supply of the goods or services to the purchaser (i.e., “buy-and-sell” arrangement). For VAT purposes, there are two separate transactions:

- A supply of goods or services from the actual supplier to the undisclosed agent; and
- A supply of the same goods or services from the undisclosed agent to the actual customer.

Example

Using the above example, if the agent appointed by Company A later decides to purchase the software license from Company A to subsequently sell to customers in its own name, the agent will be acting as an undisclosed agent for Company A.

The sale of the software license will be directly from the agent to the final customer. In such cases, there is a supply of the software from Company A to the agent and then the agent to the final customer.

The VAT treatment of both these transactions will need to be considered separately.

7.2. Online portals and interfaces

Online portals and interfaces are often used for transactions in the digital economy sector – this will include, for example, websites, apps and electronic software. Such platforms connect buyers with sellers, for example, by offering the possibility for customers to browse through various products from different origins and to filter through certain criteria (price, usage, colours etc.). Additionally, a platform can fix certain terms across the different buyers (e.g., arranging the delivery of the goods through its own distributors, fixing selling prices and terms and conditions of a sale), as well as taking on certain risks (e.g., allowing refunds, exchange).

An online platform may act as a disclosed or undisclosed agent. In some cases, the platform will be a pass-through of the supply of goods and it will obtain a commission – this is a disclosed agent. On the other hand, there may be platforms that purchase the goods from their suppliers and later sell these goods to customers – this is an undisclosed agent.

Typically, such platforms act directly as the seller of the goods or services to the final customer and a separate agreement is in place between the platform and the original supplier.

Additional conditions arise when the original supplier is a non-resident. In such cases, the platform is perceived as an undisclosed agent, unless:

- The non-resident is expressly mentioned as the supplier of the goods or services sold on the platform, on the contractual agreement and on the invoice or receipt issued for the sale of the goods or services sold; or
- The platform cannot charge the customer for the goods or services sold themselves and has no rights on the terms and conditions of the supply provided.

When the platform is considered as an undisclosed agent for a non-resident supplier, the following supplies will take place:

- The goods or services will be purchased from the non-resident supplier (VAT registration obligations may arise for the non-resident if the platform is not registered for VAT); and
- A separate local supply by the platform to the final customer will take place for the supply of goods or services purchased online.

Example

An online platform sells clothes and accessories in Bahrain. The platform arranges the delivery of the goods, receives payment and sets the terms and conditions of the sale, the price of the goods and the rights for refund.

When a sale takes place, the platform collects the payment and issues a tax invoice to the final customer. There is no contact between the final customer and the original supplier of the clothes or accessories and any interaction with the final customer is dealt with by the platform (e.g., complaints, refunds).

In this case, the platform is acting in its own name as an undisclosed agent. There is therefore a sale of goods by the platform to the final customer and the VAT implications of these supplies will need to be considered.

7.3. Input tax recovery for agents

The normal input tax recovery rules, as set out in the “Input tax recovery” section of the VAT General Guide will apply for supplies made by agents.

In particular, an agent can only recover the input tax incurred on costs relating to supplies that it receives. If it incurs input tax on costs incurred on behalf of another person, this input tax will not be recoverable by the agent.

Example

A disclosed agent that is a taxable person in Bahrain acts in the name of a non-resident furniture supplier. The agent introduces the supplier with potential buyers in Bahrain. Once a potential buyer contracts for the purchase of specific furniture, the sale is made between the non-resident furniture supplier and the buyer.

The non-registered customer is the importer of record when the goods are imported into Bahrain. This is however paid by the agent at the time of import and the customer pays the agent for the VAT at the time of delivery.

The import VAT does not relate to its business activities (as they are the customer’s goods) and this VAT cannot be recovered by the agent.

8. 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.

