

VAT alert

Bahrain publishes VAT legislation

October 2018

Overview

On 1 January 2019 Bahrain will introduce VAT. Following its near neighbours Saudi Arabia and UAE who implemented the tax this year.

The VAT law is now published with Implementing Regulations to follow. These will provide much needed detail as to how the tax will operate.

For Europeans the operation of the tax will be very familiar. However provisions to simplify the supply of goods and services between Member States which exist in the EU are not yet operational in the GCC.

Although VAT will not be introduced until 1 January 2019 businesses trading with or in Bahrain need to consider the implications for existing contracts for goods and services supplied after that date.

To prepare for implementation they also need to consider:

- Is VAT registration necessary
- Changes to accounting systems to comply with local regulations.
- Whether input tax will be incurred on goods and services and whether it can be reclaimed.
- Will VAT affect prices
- Changes to employment contracts if the costs of benefits increase
- If they have operations in Bahrain, training staff and raising awareness of the tax.

Summary of VAT legislation effective 1 January 2019

Bahrain is to introduce VAT into the Kingdom from 1 January 2019 and has now released its Value Added Tax (VAT) Law. As expected, the legislation is very similar to that introduced in Saudi Arabia and UAE although it provides for more and broader zero-rates and exemptions. We will have to wait for the Implementing Regulations to provide more of the detail.

The legislation is in Arabic. If there is a conflict between the Arabic version and a version translated into another language it will be the Arabic that will prevail.

Main provisions

Rates of VAT — Standard rate will be 5%.

Zero-rated supplies — Article 53 lists categories of zero-rated supplies (subject to conditions contained in the Regulations). These include:

- Oil, oil derivatives and gas sector
- Foodstuffs (based on a list approved by the Financial and Economic Cooperation Committee)
- Local transport
- International transportation services and the supply of related means of transport
- Construction of new buildings
- Educational services, as well as the related goods and services to nursery, pre-school, primary, secondary and higher education
- Preventive and basic healthcare services, as well as related goods and services
- Certain medicines and medical equipment
- Export of goods outside of the implementing states
- Export of services to a customer residing outside the implementing states
- Supply of goods under a customs duty suspension
- The supply or importation of investment gold, silver and platinum
- The first supply of gold, silver and platinum after extraction for commercial purposes
- Pearls and precious stones (subject to obtaining certificates)

Exemptions — Articles 54 to 56 set out the scope of exemptions (subject to conditions contained in the Regulations), which include:

- Financial services, unless there is an explicit fee, commission or commercial discount
- Supply of vacant land and buildings by way of lease or sale

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Summary of VAT legislation effective 1 January 2019

Exemption (continued)

- Imported goods where:
 - The supply of such goods in the final country of destination is exempt or zero rated
 - Goods that are exempt from customs duty in accordance with the terms and conditions in the Common Customs Law, which include personal luggage

Import VAT — Article 51 provides that import VAT is paid to the customs authority, where Bahrain is the first point of entry. Tax authorities may allow the taxable person to defer the payment of VAT until the submission of the VAT returns.

Registration — The thresholds for registration are as follows:

- Mandatory registration threshold — SAR 375,000 (approx. BHD 37,700)
- Voluntary registration threshold — SAR 187,500 (approx. BHD 18,850)
- A non-resident person shall be required to register in Bahrain, regardless of the value of supplies, as long as they are obliged to pay the tax in Bahrain.
- Exception from registration — a business making wholly zero-rated supplies can request an exception from registration

Group registration — Article 30 allows two or more taxable legal persons, resident in Bahrain to register as a VAT group, upon application and approval (as per the Regulations).

Tax periods — Regulations will specify the duration of tax periods, which should not be less than one month.

Filing — The deadline for filing the VAT return is the last day of the month following the month in which the tax period ends.

Tax invoices — Regulations will determine the content and conditions relating to tax invoices. However an invoice is required within 15 days of the month end following the date of the supply.

Penalties — These include penalties for failing to register for VAT (up to BD10,000) and failing to provide the tax authority with information it requests (up to BD5,000). The following violations could be regarded as tax evasion, and could result in imprisonment:

- Failing to register for VAT within 60 days of the registration deadline
- Failing to pay VAT within 60 days of the payment deadline
- Failure to provide a tax invoice
- Charging VAT on non-taxable items
- Recovering input VAT incorrectly

Transitional rules — Transitional provisions relating to supplies that span the implementation date include:

- Special time of supply (Article 75) — Tax will be due on supplies taking place after 1 January 2019, even if the invoice is issued or payment is received before 1 January 2019
- Consideration received for supplies provided partially or wholly after 1 January 2019 arising from contracts entered into before that date will be VAT inclusive. Regulations will provide special provisions for such contracts
- Under special conditions, supplies after 1 January 2019 relating to Government contracts signed before 1 January 2019 should be zero-rated until the earlier of the contract renewal date, contract expiry date or 31 December 2023
- Intra-GCC supplies - Until the implementation of the Electronic Services System, goods transported from Bahrain to other GCC implementing states will be treated as an export
- Bahrain will not treat a GCC member state that has already implemented VAT as an Implementing State if it does not treat Bahrain as an implementing state and does not fully comply with the GCC VAT Agreement.

Comment – Businesses established in or trading with Bahrain should now be preparing for the introduction of VAT. This will include amending systems and reviewing contracts