

Indirect Tax Update

New Guide issued by the National Bureau for Revenue (NBR) on Real Estate

Dear Valued Clients and Contacts,

The National Bureau for Revenue ('NBR') has issued a Guideline on Real Estate which provides an overview of the VAT applicability and procedures to be followed in Bahrain in relation to Real Estate ('Guide'). Broadly, the Guide outlays the tax applicability of various real estate related services, corresponding tax due dates, input tax recoverability and specific issues under construction services.

We have summarized the key aspects in relation to the VAT treatment for real estate related supplies as per the Guide for your understanding and reference:

Supplies related to Real Estate

A summary of the VAT treatment related to real estate supplies has been provided below:

Exempt supplies

- Sale or lease of commercial or residential real estate.
- Sale or lease of land, including partially developed land.
- Labor accommodation where it meets the conditions of residential real estate (criteria provided in the Guide).
- Car parking for one month or more (designated or non-designated parking spaces).
- Provision of service office space on exclusive basis (any additional services received from the service provider such as access to telephones, internet, printers, meeting rooms will be taxable at a standard rate).
- Provision of space for retail or promotional stands (e.g., at a shopping mall, retail or entertainment area) for a period of more than one month.
- A function room, hall or similar facility which is rented out to an operator on a long term basis with the intention for that operator to hire the premises to other persons for parties, weddings, etc.
- Storage and warehousing facilities where a designated space is rented out to the customer on an exclusive basis to store goods and the customer has the right to access the space.

Standard Rated supplies

- Supply of hotel accommodation - VAT is applicable on the total consideration including all other charges, taxes and similar amounts due, including any service charge collected on behalf of the Bahrain Tourism and Exhibition Authority and any government levies (where applicable).
- Car parking for less than one month.
- Provision of serviced office space on a non-exclusive basis (For example, where the customer can use a "hot-office" or "hot desk")
- Rental of functional room, hall or facility.
- Services which are charged separately from a supply of real estate. (For example, utilities, telecommunications, internet and television, property management services, security services for building, cleaning services, maintenance, pool lifeguard and similar services.)
- Serviced apartments.
- Provision of safety deposit boxes in relation to provision of storage facilities.
- Storage and warehousing facilities provided on a non-exclusive basis, where goods are stored in a place at the discretion of the service provider.
- The provision of permission to affix equipment or signage to land or buildings.

- Supply of an area of real estate for placing telecommunication towers, advertising boards, and similar fixtures.
- Provision of space for retail or promotional stands (e.g., at a shopping mall, retail or entertainment area) for a period of less than one month.

Out of Scope supplies

- Transfer of property as part of a going concern.

Labor accommodation

- Where the labor accommodation provided by employers to employees does not meet the criteria for exemption and is taxable at the standard rate - Deemed supply provisions will need to be considered.
- VAT costs incurred by an employer in providing the labor accommodation (excluding food, entertainment and internet), will be regarded as a business expense and can be recovered and the employer is not required to recognize a deemed supply to its employee.

Supplies in relation to construction of new buildings

Scope of 'New building'

- A building will be an immovable structure which has walls and a roof. Bridges, elevated roads and flyovers will not be regarded as buildings.
- A pre-fabricated structure will not be treated as a building. However, a structure that incorporates pre-fabricated may be regarded as a building.
- When a room or part of an existing building is demolished and replaced by a new structure that does not add any additional capacity to the building in terms of space or function, the new structure will not be regarded as a new building.
- When a new building is constructed adjacent to an existing building and the new and existing buildings share one or more existing walls.
- Any boundary walls on land on which a new building is being constructed.

A summary of the VAT treatment for supplies related to the construction of a new building has been provided below:

Zero Rated Supplies

- Construction of new buildings (The Guide enumerates the various types of construction works that qualify for the zero rate).
- Goods supplied by a taxable person providing construction services in the course of such construction (The Guide enumerates the various types of goods that qualify for the zero rate).
- Supplies made by sub-contractors providing construction services in relation to new building.

Standard Rated Supplies

- Fixtures and fittings not permanently attached to a building and which can be removed without damaging the building or the goods – Even if only minor damage is caused to the building or goods when removing the fixtures and fittings (e.g., small screw holes left after removing the items, a small number of cracked or broken tiles, scratches to woodwork).
- Hiring of equipment (e.g., cranes, excavators, bulldozers, loaders, compressors, power generators etc.) to be used by a person supplying construction services.
- Construction of swimming pools whether on the land adjacent to the building or incorporated into the building (e.g., on the roof or in a basement).
- Construction of saunas and steam rooms.
- Supply of goods by a person who does not itself provide any construction services to a person who provides construction services in relation to a new building.

Snagging and Retention

- When the builder rectifies defects or quality issues on a snagging list at his cost, there is no further supply of construction services and the builder will not be required to account for VAT on the work undertaken by him to rectify the snags.
- When the customer engages another supplier to correct the items on the snagging list or when the original builder does this work for additional consideration, this will be regarded as an additional supply subject to VAT at the relevant rate.

- The reference to retention on the tax invoice (and its deduction from a gross amount) does not in itself trigger a tax due date on the amount retained. The tax due date for the retention amount will be the earliest of:
 - ✓ The date the retention payment is made
 - ✓ The issue of a tax invoice in relation to the retention amount
 - ✓ The due date for payment as specified on the tax invoice in relation to the retention amount
 - ✓ 12 months from completion of the services (as determined by the contract, e.g. certification)
- Where a retention payment becomes payable on or after 1 January 2019 which relates to construction services completed prior to that date, the receipt of the payment by the supplier will be outside the scope of VAT.
- Once a new building is complete, any further supplies of construction services and goods will not qualify for the zero-rate. Completion is determined by considering the relevant factors enumerated in the Guide.

Documentation

- Documents related to real estate must be retained by both parties for a period of 15 years from the end of the tax period to which they relate.
- A subcontractor providing construction services in relation to a new building should obtain a certificate (or a certified copy of the original certificate) that the building meets the criteria to be a new building. This certificate should be prepared by the main contractor or the property owner and should contain the information prescribed under the Guide.
- The abovementioned certificate will not be authenticated or approved by the NBR and the NBR will not accept requests to validate that a certificate is accurate or genuine.

Other aspects covered in the Guide

In addition to the above, the Guide also covers other aspects relevant to real estate services, i.e., the VAT accounting and reporting requirements such as due date of tax and input tax recovery in relation to real estate.

In case of any ambiguity in relation to the VAT treatment of a particular real estate service, a taxable person 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.

For more information, please [contact us](#)

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