

Bahrain releases new VAT Law

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Executive summary

On 9 October 2018, the Kingdom of Bahrain (Bahrain) released its Value Added Tax (VAT) Law under Royal Decree No. (48) of 2018. The VAT implementation date will be 1 January 2019.

Bahrain's VAT Law differs in key areas from corresponding legislation introduced in Saudi Arabia and the United Arab Emirates (UAE) in that it provides for more and broader zero-rates and exemptions, with a view to balance a range of relatively unique socio-economic objectives.

Detailed discussion

Background

In November 2016, the Gulf Cooperation Council (GCC) Member States executed the Common VAT Agreement of the States of the GCC (GCC VAT Agreement), outlining the framework that Member States should follow when implementing their domestic VAT rules. Saudi Arabia and the UAE implemented their VAT systems on 1 January 2018.

Bahrain released the VAT Law on 9 October 2018 via the *Official Gazette* website. The Royal Decree states that VAT will be implemented on 1 January 2019. The Implementing Regulations (Regulations) are expected to be published shortly.

Highlights of the Law

Effective date of implementation – Article 4 of the Royal Decree states that the Law will come into force on 1 January 2019.

Scope of VAT – In accordance with the GCC VAT Agreement, Article 2 of the Law provides that the supply of all goods and services made in Bahrain, as well as imports, shall be subject to VAT.

Rates of VAT – Article 3 of the Law provides for a standard rate of 5%, while certain goods and services may be subject to a zero-rate or exempt from VAT.

Zero-rated supplies – Article 53 of the Law sets out provisions where certain supplies and sectors are subject to the zero-rate of VAT (subject to satisfying conditions and procedures that will be outlined in the Regulations). These include:

- ▶ Oil, oil derivatives and gas sector
- ▶ Supply and importation of foodstuffs (based on a list approved by the Financial and Economic Cooperation Committee)
- ▶ Local transport sector
- ▶ International transportation services and the supply of related means of transport
- ▶ Construction of new buildings
- ▶ Supply of 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
- ▶ Supplies or imports of certain medicines and medical equipment
- ▶ Export of goods to outside of the implementing states
- ▶ Export of services to a customer residing outside the implementing states
- ▶ Supply of goods under a customs duty suspension scheme
- ▶ The supply or importation of investment gold, silver and platinum with a purity level not less than 99%, which is tradeable on the Global Bullion Market (and subject to obtaining a certificate)
- ▶ The first supply of gold, silver and platinum after extraction for commercial purposes
- ▶ Supply and import of pearls and precious stones (subject to obtaining a certificate)

Exemptions – Articles 54 to 56 set out the scope of exemptions, which include:

- ▶ The supply of financial services, unless payment is made by way of an explicit fee, commission or commercial discount. The rules and conditions with respect to these services will be outlined in the Regulations
- ▶ Supply of vacant land and buildings by way of lease or sale (subject to further rules and conditions to be outlined in the Regulations)
- ▶ The importation of:
 - 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 set forth in the Common Customs Law, and that are as follows:
 - ▶ Diplomatic exemptions
 - ▶ Military exemptions
 - ▶ Used personal effects and household items transported by nationals living abroad on return and expatriates moving to live in Bahrain for the first time
 - Personal luggage and gifts carried by travelers
 - Necessities for people with special needs

Exemptions will be subject to satisfying conditions and procedures to be outlined in the Regulations.

Import VAT – Article 51 provides that import VAT should be 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 submission of the VAT returns.

Registration – Article 29 provides an overview of the persons required to be registered for VAT purposes.

The thresholds for registration are in line with the GCC VAT Agreement (referencing the Saudi Arabian Riyal - SAR) which are as follows:

- ▶ Mandatory registration threshold – SAR375,000 (approx. BHD37,700)
- ▶ Voluntary registration threshold – SAR187,500 (approx. BHD18,850)
- ▶ A nonresident person shall be required to register in Bahrain, regardless of the value of supplies, as long as he is obliged to pay the tax in Bahrain. Registration can be done directly or through a tax representative

- ▶ Exception from registration – Article 32 outlines that a taxable person, who has a mandatory registration requirement due to all taxable supplies being zero-rated, can request an exception from having to register

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 period – Article 35 provides that the Regulations will specify the duration of the tax period, which should not be less than one month.

Filing of the tax return – Article 36 provides that 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 – Article 38 provides that the Regulations will determine the content and conditions relating to tax invoices.

Issuance of a tax invoice – Article 39 states that tax invoices should be issued within 15 days of the month following the date of the supply.

Penalties – The law outlines the penalties that could be imposed for non-compliance. These include penalties for failing to register for VAT (up to BHD10,000) and failing to provide the tax authority with information it requests (up to BHD5,000). Under Article 63, 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
- ▶ Unrightfully recovering input VAT

Transitional rules – Articles 75 to 79 set out the transitional provisions relating to supplies that span the implementation date. These include:

- ▶ Special time of supply (Article 75) – Should the supply take place after 1 January 2019, but the invoice is issued or payment is received before 1 January 2019, the time of supply will be the date when the supply is made and VAT should be due

- ▶ Contracts silent on VAT (Article 76 (a)) – Where a contract has been signed prior to 1 January 2019 that relates to supplies provided partially or fully after 1 January 2019, the consideration for the supply would be treated as VAT inclusive (if VAT is applicable). The Regulations will provide special provisions for such contracts

- ▶ Government contracts silent on VAT (Article 76 (b)) – Under special conditions, supplies after 1 January 2019 under contracts signed with the Government 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 (Article 78) – Provides that until the implementation of the Electronic Services System, supplies of goods that are transported from Bahrain to other GCC implementing states will be treated as an export of goods

- ▶ Treatment of non-implementing states (Article 79) – Bahrain will not treat a GCC Member State that has already implemented VAT as an implementing state where that Member State does not treat Bahrain as an implementing state and does not fully comply with the GCC VAT Agreement

The original law is published in Arabic. In case of a conflict between the original version (Arabic) and any translation, the Arabic version will prevail.

Implications

The introduction of VAT in Bahrain will affect all economic sectors. Businesses may require considerable effort and action to update their people, processes, systems, contracts and stakeholders for VAT. For businesses accustomed to operating in a tax-free environment in Bahrain, VAT compliance requirements will require a fundamental change in many business practices.

An implementation date of 1 January 2019 does not leave much time for businesses to prepare for VAT. Some businesses may benefit from lessons learned during the recent implementation exercises in Saudi Arabia and the UAE. However, it is important for businesses to initiate their VAT preparations quickly to reduce the risk of non-compliance and penalties when the new rules are implemented.

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