

Bahrain: NBR releases updated VAT Real Estate Guide

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In brief

VAT Real Estate Guide

The National Bureau for Revenue (NBR) in Bahrain has released an updated version of the VAT Real Estate Guide that was first issued by the NBR in February 2019. In the updated version of the Guide, the NBR has provided additional guidance on the VAT treatment of land reclamation, ready-mix concrete, how to apply the zero-rate where a supplier receives advance and/ or installment payments, apportioning certain costs for zero-rating and standard rating on building an extension and when a certificate must be obtained by a supplier providing construction services in relation to a new building. The NBR has also extended the list of transactions in the Guide which are not treated as exempt supplies of real estate.

In detail

In accordance with the Bahrain VAT Law and its Executive Regulations, the sale and rental of real estate is exempt from VAT. The exemption applies to residential and commercial real estate and to bare land. Furthermore, the legislation zero-rates the construction of new buildings and any goods supplied by a person making a supply of construction services, in the course of providing construction services for a new building.

The updated VAT Real Estate Guide (version 1.1) provides additional guidance in relation to five specific areas discussed below.

Land reclamation

The updated Guide confirms that reclaimed land will not be treated as a building under the zero-rating provisions for the construction of a new building. As such, any land reclamation services in Bahrain will be subject to VAT at the standard rate of 5%.

Furthermore, any goods used during the provision of land reclamation services will not qualify for zero-rating.

Ready-mix concrete

The updated Guide confirms that the supply of ready-mix concrete will be considered as the provision of construction work regardless of whether the supplier has any role in pouring the concrete into the foundations or the structure of the building, or whether the supplier simply deposits it on site, for example, in a container or vessel, for use in the building.

Based on the above, any supplies of ready-mix concrete in relation to the construction of a new building will be zero-rated. A supplier of ready-mix concrete (regardless of whether he is a main contractor or subcontractor in relation to a construction project for a new building) should obtain and hold a certificate (or a certified copy of the original certificate) in order to apply the zero-rate. Further details on the certificate required can be found in section 5.6 of the VAT Real Estate Guide.

Any supplies of ready-mix concrete in relation to an existing building will continue to be subject to VAT at 5%.

Applying the zero-rate to advance and/or instalment payments

The updated Guide clarifies how to determine the VAT treatment of advance and instalment payments where the full consideration does not relate to a zero-rated supply, i.e. the payments received by a supplier relate to both zero-rated and standard rated supplies. In such cases, the taxpayer should consider the following guidance from the NBR:

- Advance payments and instalment payments which do not refer nor are calculated by reference to specific goods and services supplied during a specified period:

The taxpayer should apportion the amount of the advance payment between the zero-rated and the standard rated supplies based on the expected split of the overall contract price between supplies subject to the zero-rate and those subject to the standard rate.

In such cases, the apportionment should be fair and reasonable and the basis for conducting the apportionment should be documented and retained for review by the NBR.

- Instalments which are calculated by reference to specific goods and services supplied during a specified period:

Any apportionment of the amount of an instalment payment between supplies qualifying for the zero-rate and those taxable at the standard rate should be carried out based on the actual supplies made to which the instalment payment relates.

Apportioning certain costs for zero-rating and standard rating on building an extension

Construction services in relation to an extension which adds an additional room or functional space to an existing building are zero-rated. In the updated Guide, the NBR has provided clarification on the VAT implications where certain components of an existing building are replaced or upgraded as a necessary part of the extension works.

The updated Guide confirms that, where components are needed for, and are used as part of, the extension, a taxable person can apply the zero-rate to part of the costs that relate to the zero-rated construction services for building the extension. The taxable person must apply a fair and reasonable apportionment when determining what costs will be zero-rated and those that will be standard rated. The Guide mentions that apportionment by floor area will generally be acceptable.

The cost of removing or demolishing existing components of an existing building which will be upgraded or replaced as part of the extension will be standard rated and the zero-rating will not apply.

Certificate from main contractor or property owner

The updated Guide sets out further information on the procedures for certificates relating to new buildings. In order to apply the zero-rate on construction services and associated goods in relation to a new building, a supplier must obtain a certificate (or a certified copy of the original certificate) that the building meets the criteria to be a new building for the purposes of Article 76 of the VAT Regulations. The certificate must contain all of the information as set out in the Guide.

This requirement has now been extended to all suppliers who provide construction services in relation to new buildings, including a main contractor. Where an owner of a building does not provide a certificate to a main contractor which is making supplies of construction services and related goods, the main contractor can prepare a certificate itself, but may need to obtain the building permit from the property owner.

In the absence of a certificate, a supplier must charge VAT at the standard rate of 5% even where the supplies relate to the construction of a new building.

The updated Guide also sets out guidelines on the procedures which should be followed where a certificate has been received after a tax invoice has been issued by a supplier, including when a tax invoice which shows VAT at 5% can be cancelled and reissued. Broadly, the tax invoice can be cancelled and reissued showing the zero-rate where the recipient of the supply has not claimed the input tax on a VAT return.

Transactions that are not treated as exempt supplies of real estate

The updated Guide extends the list of supplies that are not considered as the sale or rental of real estate and therefore taxable at the standard rate of 5%. This list now includes:

- Provision of permission to use a specific area: vending machines, shelf space, etc.
- Short-term retail and promotional stands rented for a period of less than one month, and
- Mooring rights for boats and ships and rental of jetties that are not fixed structures

The updated VAT Real Estate Guide provides additional guidance in relation to a number of areas affecting taxpayers in the Real Estate sector. Those businesses who are impacted by these specific updates by the NBR should review the updated Guide for additional information and ensure that the VAT treatment applied on their supplies from 1 January 2019 has been correct.

Link to the NBR website

A link to the updated VAT Real Estate Guide can be found below:

https://www.nbr.gov.bh/vat_guideline

The takeaway

Businesses who make supplies of goods and services in the real estate sector will need to consider the impact of the updated VAT Real Estate Guide from the NBR and ensure that VAT has been correctly accounted for on supplies from 1 January 2019.



Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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