KPMG

Tax alert

24 December 2021

Bahrain: VAT rate increase to 10% effective 1 January 2022 with one year transition period

Law no (33) for the year 2021 amending Decree-Law no (48) for the year 2018 Regarding Value Added Tax (VAT Law) to increase the standard VAT rate from 5% to 10% effective 1 January 2022 has been approved. Law no (33) amends certain provisions of the VAT Law and provides for a transition period of one year ending on 31 December 2022.

Suppliers will have to charge 5% VAT on standard rated supplies made during this transition period subject to meeting certain conditions. It appears that the transitional rules are mandatory where the conditions are met and not optional similar to when the Kingdom of Saudi Arabia increased the VAT rate in 2020. The Bahrain National Bureau for Revenue (NBR) has released a VAT Rate Change Transitional Provisions Guide and VAT FAQs on the transitional rules (collectively referred to as Transitional Guidance).

One-off supplies

Contract entered into	Supply made	VAT rate
On or before 23 December 2021	1 January to 31 December 2022	5%*
On or after 24 December 2021	On or after 1 January 2022	10%**

* Unless the contract is amended or renewed before the supply is made.

** The Transitional Guidance states that the supplier will need to account for VAT at 10% in the December 2021 VAT return on the full or partial payment received on or before 31 December 2021. The supplier is obliged to issue a tax invoice showing 10% VAT by 15 January 2022. This may cause a major issue for suppliers (especially retailers) as their systems are unlikely to be ready to issue a 10% invoice yet. For example, a car dealer signing a contract with a customer on 26 December 2021 needs to issue a tax invoice with 10% VAT and account for VAT at 10% in their December 2021 return. Transitional Guidance also states that invoices issued with 5% VAT will need to be cancelled and reissued with 10% VAT before 15 January 2022. It appears that where an invoice has been issued with 5% VAT you cannot issue an additional invoice/debit note for the differential VAT.

Continuous supplies

Contract entered into	Supply made	VAT rate
On or before 23 December 2021	Up to 31 December 2022	5%#
On or after 24 December 2021	On or after 1 January 2022	10%##

Provided that the contract is not amended or renewed during this period. If the contract is amended or renewed then 10% VAT will apply for the portion supplied on or after the contract is amended/renewed.

5% VAT will apply on the portion supplied on or before 31 December 2021. The Transitional Guidance states that suppliers have the option of issuing a single tax invoice showing both 5% VAT and 10% VAT.

The KPMG Bahrain tax team has also prepared a decision tree setting out when businesses can still apply the 5% VAT rate.

Importantly, there is no change to the VAT treatment of supplies that are currently treated as exempt or zero-rated.

What constitutes a change to a contract?

The Transitional Guidance states that a change includes, but is not limited to:

- Extending the duration of the contract
- Changing the type of supplies
- Including additional supplies in the existing contract
- Increasing the consideration payable for supplies which would otherwise be subject to 5% VAT

The NBR has also stated that changes which do not impact the amount or value of supplies to be supplied under the contract such as changes in method of delivery or payment method, will not generally be considered as a change to the contract. The intention of the parties in making the change is not relevant and will be disregarded by the NBR.

Businesses need to act fast

With 5 working days left to the effective date of the VAT rate increase to 10%, businesses need to act fast to ensure they are prepared. Whilst the Transitional Guidance clarifies some aspects, there are still a number of questions that remain unanswered such as:

- Will the format for December 2021 VAT return be changed?
- Where a tax invoice at 5% has already been issued on the basis that transitional relief applies but the supply is subsequently made without transitional relief, will the NBR allow the issue of a debit note for the additional VAT or will they only accept the cancellation of a tax invoice by way of a credit note and then a new tax invoice issued with 10% VAT? Will the prior VAT return need to be amended?
- What will the NBR consider to be a contract?
- Is the application of the transitional rules mandatory where the conditions are met or optional similar to the Kingdom of Saudi Arabia?
- Do the transitional rules also cover imported services?

We will be issuing further guidance in the coming days. If you require assistance with the VAT rate increase please contact us.

The above is for general information only and is not intended to address the circumstances of any particular scenario. Please seek professional advice in relation to your particular circumstances.

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