

## Overview

This summary has been drafted specifically for Bahrain resident telcos and foreign non-resident telcos who are providing services to customers in Bahrain. For non-resident telcos, there is no mandatory registration threshold meaning any non-GCC resident telco (currently other GCC countries are seen as being outside the GCC for VAT purposes) making supplies in Bahrain to a non-taxable person will have an immediate requirement to register upon making their first taxable supply.

The provision of telecommunication services is a very complex area of VAT. The GCC VAT treaty, the Saudi, UAE and Bahrain VAT legislation contain 'use and enjoyment' rules covering wired and wireless telco services as well as electronically supplied services – telcos need to consider place and time of supply rules and contractual matters very carefully.

## Place of supply

In essence, under the use and enjoyment VAT rules the place of supply (where VAT is due) is determined by where the services are consumed or enjoyed. This will require Bahrain telcos to carefully monitor movements of their customers and register for VAT in more than one GCC country even if they do not have a presence in the other GCC country. For example, with roaming services, an individual customer must be physically present in a specific location to receive the service. Where the customer uses and enjoys the services at that location, the place of supply is that location.

Establishing where their customers are registered is critical for telcos as VAT registered customers will self-account for VAT. Therefore, if a Bahrain telco is only dealing with VAT registered customers in other GCC countries then it should not need to register in that other GCC country. Otherwise, it should be considering its obligation to register in Saudi Arabia and the UAE, if it has not already done so. The Bahrain VAT legislation prescribes the following in relation to roaming services:

- Foreign telcos will be required to register for VAT in Bahrain and account for VAT on charges they make to their roaming customers in Bahrain.
- Bahrain telcos will be required to charge VAT on roaming services they provide to a foreign telco if these foreign telcos are not registered for Bahrain VAT.
- Bahrain telcos will need to perform the reverse charge on roaming charges received from foreign telcos in respect of their customers roaming abroad.

The information in this document is based on translations of the VAT legislation of Bahrain, the UAE and Saudi Arabia, the GCC VAT framework and general VAT principles. It is provided for information purposes only. As the Bahrain VAT legislation has been recently released and is still being reviewed in detail, any comments are preliminary in nature and likely to change. Any omissions or errors are inadvertent. This document should not be relied upon in making any decisions. You should seek appropriate professional advice from a tax advisor before making any decision relating to your particular circumstances.

## Time of supply

### *Contracts spanning the VAT introduction date:*

- Device only contracts – if goods have already been supplied prior to the VAT introduction date, VAT should not be accounted for on any instalment payments for the period remaining after the VAT introduction date.
- Service only contracts (postpaid) – VAT should be accounted for on all service charges after the VAT introduction date. Whether VAT can be added by the Bahrain telco in addition to the already agreed monthly price with the customer will depend on the contract and compliance with TRA regulations
- Bundled contracts – For devices, there should be no VAT on the device component – see above. For the service component, VAT should be accounted for as above.
- Month by month service (postpaid) – VAT should be accounted for on all services after the VAT introduction date. Whether VAT can be added by the Bahrain telco in addition to the already agreed monthly price with the customer will depend on the contract and compliance with TRA regulations.

### *Other:*

- Roaming charges to customers – No VAT should be charged by Bahrain telcos in relation to roaming charges made to their customers roaming (outside Bahrain).
- Roaming charges to foreign telcos – if the foreign telco is not registered in Bahrain then the Bahrain telco should charge VAT on roaming charges to the foreign telco.
- Prepaid recharge cards – VAT should be accounted for on the prepaid recharge card when the customer buys it or when the cards are sold to third party retailers, under the voucher rules. In relation to cards already activated prior to the VAT introduction date, VAT should be accounted for on any services provided after the VAT introduction date.
- Vouchers – issued by telcos are generally single purpose vouchers in which case, VAT should be accounted for at the time of issue of the voucher.

**Note:** In Bahrain due to the phased implementation of VAT, the reference to the VAT introduction date above is a reference to the date from which the supplier is registered for VAT.

## Issuing invoices:

- Invoices should comply with the invoicing requirements under the Bahrain VAT legislation. Bahrain telcos will need to carefully identify all the different charges on an invoice to a customer and account for VAT accordingly. For example, service charges in Bahrain should have VAT on it but there should be no VAT on roaming charges and no VAT on the monthly instalment for a device that has already been supplied prior to the VAT introduction date.

## Contractual matters

Many businesses are under the misapprehension that the introduction of a new VAT law gives them the automatic right to charge VAT unilaterally irrespective of what the contract may say. Businesses should consider whether the contract with the customer:

- has a VAT or at least a tax clause
- allows the supplier to change the price or terms of the contract without the consent of the customer
- allows a change in pricing due to a change in legislation

If contracts are silent on VAT and the supply is taxable, contracts are said to be inclusive of VAT. In the absence of other provisions that may allow you to vary the price or charge VAT in addition, then businesses may need to absorb the VAT unless they can renegotiate the contract with their customers. To calculate the VAT amount in a VAT inclusive contract Bahrain telcos can use the following formula:

$$\text{Tax} = \text{Consideration} \times 5/105$$

There are specific rules for contracts signed with government customers prior to Bahrain's VAT law coming into force.

## Regulatory issues:

All of the above should be considered in conjunction with the telcos obligation to comply with the Bahrain Telecoms Regulatory Authority regulations.

*This document is not intended to be an exhaustive analysis of the Bahrain VAT legislation. We expect further clarification and detail in relation to the full application of the tax in the coming weeks, particularly as the NBT starts to publish guidance and clarifications.*

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*As always, if you have any questions, or would like to discuss any of the issues raised in this VAT brief, please get in touch with your Keypoint VAT contact.*



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