

VAT alert | NBR amends telecom place of supply rules

Kingdom of Bahrain | 4 January 2021



On 31 December 2020, the National Bureau for Revenue (NBR) released a public clarification, amending place of supply rules for telecommunication services to better align them with international telecommunications regulations (also known as the Melbourne Agreement).

What are the place of supply rules?

Effective from 1 February 2021, the NBR has clarified the place of supply rules are:

- For telecommunication services that require the customer to be physically present at a specific location to use that service – such as an internet café or a wi-fi hotspot – the place of supply is that specific location. This rule is consistent with that already provided for under article 17(B)(1) of VAT executive regulations – so there is no change to the current treatment.
- For all other telecommunication services, the place of use and enjoyment is the place of residence of the customer.

How can a customer's place of residence be determined?

Suppliers of telecommunication services must refer to:

- The IP address used by the customer to receive the service
- The country code of the SIM card used by the customer to receive the service
- The customer's address as stated on the VAT invoice or other documents used for billing
- Details of the customer's bank account
- Other information of a commercial nature

If any of the above refers to Bahrain, the place of residence (and therefore the place of supply) is Bahrain, unless the customer can prove otherwise.

What if a customer can prove overseas residence?

If the customer can prove their actual residence is outside Bahrain, the place of supply will not be Bahrain. However, the supplier must obtain satisfactory evidence of overseas residence – which means two documents showing an overseas address (such as a residence permit, ID card, bank statement, utility bill, tax return or certificate of tax residence). The supplier must either sight original documents and retain copies signed by the employee who sighted the originals, or obtain certified copies. Where the SIM country code is +973, the place of supply will always be Bahrain.

Key clarifications

- Charges from Bahrain-resident telecommunication providers (telcos) to non-resident telcos under roaming agreements – **outside the scope of Bahrain VAT**
- Non-resident telcos charging Bahraini telcos under roaming agreements – **Bahraini telco to account for VAT under the reverse charge mechanism**
- Non-resident telcos supplying services to non-residents visiting Bahrain – **outside the scope of Bahrain VAT (no requirement for the non-resident telco to register and account for VAT in Bahrain)**
- Bahrain-resident customers of Bahraini telcos roaming internationally – **Bahrain VAT to be charged because customer is resident in Bahrain.**

Your success is our business



Relevant executive regulations	Keypoint analysis
Article 17(A): The place of Supply of Telecommunications Services shall be determined in accordance with the following:	
<p>1. The place of use and enjoyment of the Service, where the Customer is an unregistered Person for Tax purposes, regardless of the place of the contract or the place of payment of the Consideration.</p> <p>2. In the Kingdom, if the use or enjoyment of the Service is in the Kingdom, within the limits of such use and enjoyment.</p> <p>3. In the Place of Residence of the Customer where that Customer is a Taxable Person</p>	<p>It is no longer relevant to consider whether the customer is a taxable person:</p> <ul style="list-style-type: none"> If the service requires the customer to be physically present at a specific location to receive the service, the place of supply is that location. In all other forms of telecommunication services, the place of supply is where the customer is resident.
Article 17(B): The place of use of Telecommunications Services shall be determined according to the following principles:	
<p>1. In the case of a Supply of Telecommunications Services through fixed locations for receiving fixed or public telephone Services, or internet (Wi-Fi) Services, the place of use and enjoyment of the Services by the Customer shall be that fixed location.</p>	<p>No change to the place of supply rules – the place of supply is the specific location.</p>
<p>2. If the Services are provided through mobile networks, the place of use and enjoyment of the Services shall be determined by the country code of the mobile chip (SIM card) used to receive the service.</p>	<p>The place of use and enjoyment is the customer's place of residence. If the country code of the SIM is +973 (Bahrain), the place of supply is always Bahrain.</p>
<p>3. If the Services relate to international roaming, the place of use and enjoyment of the Services shall be the country where the mobile network used for roaming is located.</p>	<p>Bahraini residents roaming overseas must be charged Bahrain VAT by their Bahraini telco.</p>

Contact us:



Mark Gamble
Head | Indirect tax
mark.gamble@keypoint.com
+973 3833 8641



Raman Ohri
Head | Direct tax
raman.ohri@keypoint.com
+973 3516 2335



Dao Han Hung
Manager
daohan.hung@keypoint.com
+973 3907 7964



Tariq Haq
Manager
tariq.haq@keypoint.com
+973 3628 3351



AbdulRahman Bucheeri
Assistant Manager
abdulrahman.bucheeri@keypoint.com
+973 3937 7564

Disclaimer: This information in this document is based on our analysis of the public clarification on the place of supply for telecommunications services issued on 31 December 2020 and our understanding of the international telecommunications regulations known as the Melbourne Agreement (1988). It is provided for information purposes only. Any omissions or errors are inadvertent. This document should not be relied upon in making any decisions. Seek professional advice from a tax advisor before making any decisions relating to your particular circumstances.