

Ministry of Finance

VAT Department

VAT Guidance for the Construction Industry
Version 2: August 28, 2014

This guidance is provided on the basis of continuing public consultation and will be expanded and revised as necessary, based on feedback.



Introduction

This guide is intended to provide businesses in the construction industry with additional information about Value Added Tax ("VAT"). It should be read in conjunction with the Value Added Tax Bill 2014 ("VAT Bill"), the Value Added Tax Regulations 2014 ("VAT Regulations"), the VAT Rules and The Bahamas VAT Guide ("VAT Guide"), all of which can be found on the website of the Government of The Bahamas ("Government").

Are construction services subject to VAT?

If you charge for construction of a new property in The Bahamas your services are subject to VAT at the standard rate of 7.5%. If you charge for maintenance, repair or refurbishment of an existing property in The Bahamas your services will also be subject to the standard rate of VAT.

If your construction services relate to a property that is located outside The Bahamas, your services are subject to the zero rate of VAT. This means that you do not have to charge VAT on your services and you can recover VAT you incur in The Bahamas on supplies relating to the services you are providing.

What if I am both the constructor and the developer?

If you are both the constructor and developer of a new property, you must consider what it is you will be supplying. If your supply is exempt from VAT, you will not be able to recover any VAT on the materials or services you purchase. For example, if you intend to construct a new dwelling or condo that will be used for a residential purpose and sell it or lease it on a long-term basis, your supply will be exempt from VAT. This means that you will not be able to recover the VAT on the materials and services of sub-contractors used to construct the property.

Additional information can be found in the "VAT Guidance on Land and Property".

What if I am renovating an existing property?

If you are renovating or working on an existing property your services will be subject to VAT at the standard rate, even if you are building an extension or adding an outbuilding to an existing dwelling.

How do I charge VAT?

For all taxable supplies you must provide the buyer with a VAT invoice.

A VAT invoice must show certain information and can be either in paper or electronic form. You do not need to produce an invoice on a computer if you do not have one. You can use a pre-printed pad that has duplicate sheets as long as the sheets are sequentially numbered. You can write in the specific details each time you issue an invoice.

A VAT invoice must show:

- an invoice number which is unique and follows on from the number of the previous invoice - if you spoil or cancel a serially numbered invoice, you must keep it as part of your records;
- the seller's name or trading name, and address;
- the seller's VAT registration number;
- the invoice date;
- the time of supply if this is different from the invoice date (see section "Tax point or time of supply");
- the customer's name or trading name, and address;
- a description sufficient to identify the goods or services supplied to the customer;
- the rate of any cash discount; and
- the total amount of VAT charged expressed in dollars.

For each different type of item listed on the invoice, you must show:

- the unit price or rate, excluding VAT;
- the quantity of goods or the extent of the services;
- the rate of VAT that applies to what is being sold; and
- the total amount payable, excluding VAT.

If you issue a VAT invoice that includes zero-rated or exempt goods or services, you must:

- show clearly that there is no VAT payable on those goods or services; and
- show the total of those values separately.

The following are not VAT invoices:

- pro-forma invoices;
- invoices that state 'this is not a tax invoice';
- credit card statements;
- delivery notes;
- orders; or
- letters, emails or other correspondence.

What about stage payments?

Stage payments are commonly used in the construction industry whereby a payment is required at certain stages in the construction. Where an agreement has been reached for stage payments, you should raise an invoice at each stage when a payment is due detailing the charge for that particular stage and the amount of VAT charged.

If you are in the middle of a construction project at January 1, 2015, you should also read the "VAT Guidance on Transitional Arrangements".

What about retention payments?

Sometimes a buyer will retain a sum of money until such a time that any potential construction related problems become apparent and have been corrected. You should not issue an invoice for the amount that is to be retained until it has been agreed that the amount retained is to be paid to you.

What if I only supply construction materials?

The supply and importation of construction materials is subject to VAT. If you import construction materials or buy the materials from a wholesaler you will pay VAT on the importation or purchase of those materials, however, you can recover the VAT that you have paid as input tax. You must then charge VAT when you sell the construction materials.

THE RECOVERY OF VAT ON PURCHASES

If you are a constructor you will incur VAT on goods and services that you purchase. The VAT you pay to your suppliers is referred to as input tax. You may be able to recover VAT incurred on costs as input tax.

What is input tax?

Input tax is the VAT you are charged on your business purchases and expenses, including:

- goods and services supplied to you in The Bahamas;
- import VAT you paid on goods you import from outside The Bahamas; and
- import VAT you paid on any services supplied from outside The Bahamas.

What can I reclaim as input tax?

You can normally reclaim input tax incurred on purchases that relate to supplies made by you which are liable to VAT at the standard rate or the zero rate of VAT. You can only reclaim VAT on supplies that have been made to you in the course of business.

What can't I reclaim as input tax?

You cannot reclaim VAT on costs that relate to exempt supplies. If you are a developer you may make supplies that are exempt from VAT. For example, if you construct a dwelling and sell or lease it you cannot recover the VAT on the construction costs or the costs incurred in maintaining the property.

Where costs relate to both taxable and exempt supplies you need to apportion the VAT in relation to the value of the supplies made. To determine how much VAT you can recover if you make both taxable and exempt supplies, you should use the standard method of apportionment outlined in VAT Guide. If you do not consider this method gives you a fair and reasonable allocation of costs, you can apply to the Comptroller of VAT ("Comptroller") to use a special method. In your application you must detail the method you propose to use. You must not use a special method without written agreement from the Comptroller.

When can I claim a refund of VAT?

If your input tax exceeds your output tax, and you are required to submit monthly VAT Returns, you can request a refund within 3 months of the period end in which net credits arise. If a refund arises, it should be carried forward to the next two tax periods and offset against any VAT due to the Comptroller of VAT ("Comptroller"). If you are still due a refund you should submit a claim. However, if more than 50% of your taxable supplies are zero rated you do not have to carry the excess through to the next tax period, you can submit a claim following the end of the tax period in which the credit arises.

If you are filing quarterly VAT Returns or semi-annual VAT Returns and are due a refund, you can file a claim after the end of the tax period in which the refund claim arose. You do not need to carry the refund on to the next VAT return.

It should be noted however, that any claim for a refund must exceed \$500.

It should also be noted that:

- the Comptroller may request documentation to support your claim such as invoices, receipts and tax credit or debit notes;

- claims will normally be allowed by the end of the first calendar month following the date a claim for a refund is filed although this can be delayed if there is the need to carry out an investigation to verify your claim; and
- the Comptroller may also reduce your claim by any tax, levy, interest or penalty owing to the Comptroller or the Government.

If you are likely to be constantly be in a refund position, for example, if you only make supplies at the zero rate of VAT, you should make the Comptroller aware of this as soon as possible so that your refund claims can be dealt with efficiently.

What if I buy goods or services from suppliers situated outside The Bahamas?

If you buy goods or services from suppliers outside The Bahamas you will need to determine if they are subject to import VAT. Goods and services are subject to import VAT if they would ordinarily be subject to VAT if supplied in The Bahamas. If the goods or services you import are subject to import VAT you must declare the importation and pay any import VAT due in accordance with the VAT Regulations.

The payment of import VAT is due on goods at the same time duty is due, notably at the time the goods are taken into use in The Bahamas. If you import services, you would normally have to pay the import VAT within 21 days of importing the service however, you may be able to defer the payment of import VAT.

Can I defer the payment of import VAT?

Some businesses that are registered for VAT can defer the payment of import VAT. If you are permitted to defer import VAT you can self-account for the importation of goods and services on the VAT Return rather than making a payment of VAT. You should self-account for the imported goods or service on the VAT Return for the period in which the importation takes place. If you are entitled to fully recover the import VAT, this will effectively mean the import VAT you are due to pay is offset against the amount of VAT you can recover. Instructions on how to defer VAT on imported goods and services are provided on the VAT Return, although you must not defer import VAT unless you have permission from the Comptroller to do so.

What is VAT grouping?

Transactions between separate entities, even where there is common ownership, can be subject to VAT. This can create a VAT cost and restrict the way in which companies under common ownership are structured. This is particularly relevant for group structures where companies within the group make exempt supplies.

For example, a group may have two companies one making taxable supplies and the other making exempt supplies. However, the staff costs could all be incurred in the company making taxable supplies that then recharges a portion of these costs to the company making exempt supplies. Any recharge for the staff costs will be subject to VAT which can cause a cash flow issue and as the receiving company cannot recover any VAT incurred on costs it will result in a VAT cost for the group.

VAT grouping permits a group of entities (companies, partnerships or individuals) to apply to be treated as a single taxable person for VAT purposes with a single tax identification number ("TIN") for the group. The VAT registration is made in the name of the "representative member". Any entity within the VAT group can be elected to be the "representative member". The registration is made in the name of the representative member, who is responsible for completing and rendering the single return on behalf of the group. Whilst the representative member is responsible for paying the VAT or receiving any repayment due, all the entities are jointly and severally liable for any VAT debts. Supplies between group members are normally disregarded for VAT.

If any member of the VAT group makes supplies that are exempt for VAT then the input tax for the whole VAT group would need to be apportioned. This can have advantages or disadvantages depending on the amount of VAT exempt supplies made by the group. The conditions for joining or forming a VAT group are as follows:

- All members of the VAT group must be related persons in accordance with Part I section 7 of the VAT Regulations.
- Registration as a group is not allowed where:
 1. a resident and a non-resident form part of the same grouping; or
 2. a Port licensee and a person who is not a Port licensee form part of the same grouping.

VAT grouping is optional and at the discretion of the Comptroller. If you would like to apply for VAT grouping you should contact the Comptroller providing details of the companies that you would like to VAT group including the taxable or exempt income of each company.

The Law

You may find the following references to the legislation useful.

VAT Bill

Definitions

Part IV section 21 - registration

Part V section 31(9) - the conversion of a condo or commercial rental establishment to a dwelling

Part V section 33 - place of Supply

Part XII section 98 - transitional provisions

Third Schedule Part II - exempt supplies

VAT Regulations

Definitions

Part I section 4 (4) - supply of a dwelling

Part I section 4 (5) - supply of a condo or similar

Part I section 10 - commercial rental establishment

Part I section 11 - condos leased collectively

Third Schedule (regulation 27) Part I - classification of real property

Third Schedule (Regulation 27) Part II - capital goods

Contact Us

Further information can be obtained from the Taxpayers Services help desk: 1 (242) 225 7280

Or you can contact us by email: vat@bahamas.gov.bs

Or you can write to us:

Value Added Tax Department
Ministry of Finance
Gladstone Freight Terminal
Gladstone Road
P.O. Box N-4866
Nassau, N.P.
The Bahamas

Phone: 1 (242) 461 8050

Fax: 1 (242) 361 4034

www.bahamas.gov.bs/vat