



Tax Learnings

This is the first in our fortnightly Tax Learnings series which will set out examples of penalties imposed on taxpayers by the National Bureau for Revenue (NBR) and tax technical tips for Bahrain taxpayers.

Recent cases of penalties imposed by the NBR

Late VAT registration

Background	<p>Multiple companies have been penalised for late VAT registration.</p> <p>In some cases, the NBR has issued a VAT registration certificate with a retrospective effective date in 2019 or 2020.</p>
Penalty imposed	BHD 3,000 to 5,000 per late registration.
Our comment	<p>Newly set up entities (startups) or non-resident entities should carefully assess whether they need to register for VAT – on an ongoing basis.</p> <p>Resident entities should look back 12 months and look forward 12 months to assess if they have or will exceed the mandatory registration threshold of BHD 37,500.</p> <p>For non-residents, the requirement to register arises from the first supply (regardless of the BHD value) made to non-registered customers where the place of supply is in Bahrain.</p>

Underreporting of sales

Background	<p>Multiple companies have been penalised for reporting sales incorrectly in their VAT returns.</p> <p>While in some cases the NBR has amended the previously filed VAT returns based on the information provided by the companies, in other cases the NBR has effectively filed the returns on an estimated basis.</p>
Penalty imposed	BHD 25,000 to 60,000.
Our comment	<p>Companies must ensure that actual sales are declared in the VAT returns – as the NBR reconciles the sales declared in VAT returns with bank statements and trial balance.</p> <p>In particular, the VAT treatment of invoicing to group companies must be considered – especially on historical contracts, recharges and common expenses.</p>

Did you know?

Input tax apportionment

Where the input tax does not exclusively relate to making taxable or exempt supplies, tax payers should use a proportional deduction ratio (**PE ratio**) to determine the input tax amount which can be recovered.

The NBR has clarified that in the computation of the PE ratio, the value of supplies which are **incidental** and do not constitute the core activity ("**non-core**") of the taxable person shall be excluded.

But do you know:

- what activity constitutes "incidental" or "non-core"?
- if this will be different for each industry sector?
- if this is to be computed based on the activities listed under the CR?
- if the company can freely decide what is "incidental" or "non-core"?

Some questions for taxpayers to consider:

- Given there is no NBR guidance on how to identify incidental or non-core activities for VAT purposes, is it prudent for companies to include all supplies in the PE ratio?
- If yes, wouldn't this distort the calculation?
- Will the NBR dispute the PE ratio if the inclusion of incidental or non-core activities results in the company claiming excess input credit?

Unlike many other jurisdictions, there is no 'de minimis rule' in Bahrain (or other GCC countries that have introduced VAT) and therefore more uncertainty when identifying incidental or non-core activities.

Illustration: A manufacturing company in Bahrain sells shares at a margin of BHD 250,000. Arguably, the sale of shares is an incidental activity for a manufacturing company, but what if the CR contains "investment activity" or if the management decides it to be a core activity of the company? Would the BHD 250,000 be included in the PE ratio calculation? Would NBR agree to the company's approach as this significant amount may distort the net tax position?

Considering the lack of guidance available we recommend all businesses conduct a review of their PE ratio whether or not they are a mixed supplier.

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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