

Ministry of Finance

VAT Department

The Bahamas VAT Guide | Version 2: July 30, 2014

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



Overview

This Value Added Tax (“VAT”) guide aims to provide a general understanding of how VAT works and who needs to charge VAT and when. It may not provide all the information you need. Further information can be obtained from industry specific guides, the Value Added Tax Regulations 2014 (“VAT Regulations”), the Value Added Tax Bill 2014 (“VAT Bill”) and the VAT Rules which can all be found on the website of the Government of The Bahamas (“Government”). If you still need clarification then please contact the Taxpayers Services help desk (242) 225-7280 or contact the VAT Department. The contact details are provided at the end of this guide.

What is VAT?

VAT is a tax that is charged on most goods and services that VAT-registered businesses provide in The Bahamas. It is also charged on goods and some services that are imported from outside The Bahamas.

VAT is a tax on consumption ultimately paid by the final customer but collected and remitted to the Comptroller of VAT (“Comptroller”) by businesses.

It is collected in a staged process. Each VAT-registered business will charge and collect VAT on the goods and services it supplies to its customers. The VAT charged is referred to as a business’ output tax.

A business will also pay VAT on goods and services it buys from its suppliers. This is referred to as a business’ input tax.

Most businesses will be able to offset the input tax they have paid to suppliers against the output tax they have collected from their customers. The difference between output tax and input tax is remitted to the Comptroller.

Example

A= Wholesale & importer

B= Retailer

C= Customer

1. A imports a computer for \$400.00 (insurance, transport and duties included). Import VAT will be due on this value.

A will pay $\$400.00 \times 7.5\% = \30.00 import VAT to the Comptroller

2. A sells the computer to B for \$537.50 (\$500. + VAT of \$37.50)
The VAT Return submitted by A will show the following:

output tax	\$37.50
input tax	-\$30.00
VAT to Comptroller	\$7.50

3. B sells the computer to C for \$645 (\$600 + VAT of \$45)
The VAT Return submitted by B will show the following:

output tax	\$45.00
input tax	-\$37.50
VAT to Comptroller	\$7.50

The Comptroller has collected a total of \$45.00 VAT (the same amount as the VAT charged to the customer C)
\$30.00 on importation
\$7.50 on the VAT Return submitted by A
\$7.50 on the VAT Return submitted by B

You only have to charge VAT if you are registered for VAT. If you are not registered for VAT, you cannot normally reclaim VAT that you are charged by your suppliers. If you are required to be registered for VAT and do not register, then you will still be liable for any VAT that you should have charged your customers even though you cannot charge VAT. You may also be required to pay interest and penalties, so it is important to register for VAT at the right time. Any business not required to be registered for VAT may still choose to register.

Charging VAT when you are not registered for VAT is considered a serious offence that can carry fines, imprisonment or both.

When would I be required to register for VAT?

If you are “in business” and the goods or services you provide are considered “taxable supplies”, you will have to register for VAT if you either:

- make taxable supplies and the total sales value of the taxable supplies for the previous 12 months has exceeded a specific limit - called the “VAT threshold” (see below); or
- at the beginning of any 365 day period you consider that the total value of your taxable supplies will exceed the VAT threshold in the next 365 days.

The VAT threshold is currently \$100,000 of taxable supplies.

You should apply for VAT registration within 14 days of meeting the requirements. If you meet the requirements for registration, the Comptroller will register you for VAT within 21 days of your application. If you are organizing a public event and the proceeds of which will take your taxable supplies over the VAT threshold, you must register for VAT at least 48 hours before the event is promoted.

If you do not register for VAT when you should, you will still become a taxable person and may need to account for VAT on your supplies even if you haven’t charged it.

If you operate your business from The Bahamas, you can choose to register for VAT if you make or intend to make taxable supplies, even if you are not required to register. This is referred to as “voluntary registration”. Some businesses may want to voluntarily register for VAT so that they can claim a refund of the VAT they are charged by suppliers.

You may also be able to register for VAT as a group (see section “What is VAT grouping?”).

Once you are registered for VAT you will be issued a Certificate of Registration and a Tax Identification Number (“TIN”). The Certificate of Registration must be displayed in a conspicuous place at each location where you conduct business. This allows your customers to see that you are registered for VAT.

Your TIN will be on your Certificate of Registration and you should quote this number on all sales invoices and receipts and when corresponding with the VAT department.

Once I am registered for VAT can I cancel my registration?

After 2 years of being registered for VAT, you can apply to cancel your VAT registration if you can demonstrate, and the Comptroller is satisfied, that your taxable supplies have fallen below the VAT threshold within the last 12 months, or that your taxable supplies will be below the VAT threshold in the next 12 months.

In this respect it is unlikely that you will be deregistered for VAT unless the value of your taxable supplies have fallen below \$80,000 in the last 12 months or can demonstrate that your taxable supplies will remain below \$80,000 in the next 12 months. You must continue to treat your supplies as taxable until the Comptroller has confirmed that your VAT registration has been cancelled. Once your VAT registration has been cancelled you must remove your Certificate of Registration from display.

If you have any goods on hand at the time your VAT registration is cancelled you will be making a self-supply of those goods. This means that on your final VAT Return you need to account for VAT as output tax on any goods on which you have claimed input tax and which you have on hand at the time of cancelling your VAT registration. To calculate the value of capital items, you need to refer to the Third Schedule (Regulation 27) of the VAT Regulations. The value of stock on hand at the time of deregistration will be the lesser of the cost or current market value. If you have claimed any VAT as input tax on services that will be provided after you are deregistered for VAT, and the services do not wholly relate to taxable supplies made before you cancelled your VAT registration, you must also declare the supply of those services or a portion of those services as a self-supply.

All businesses that are registered for VAT will be entered on the VAT register which is publicly available. If you want to check whether a supplier is registered for VAT you can access the register at any time on The Bahamas Government website or you can contact the VAT Department during office hours.

When would I be considered to be “in business”?

To be liable to be registered for VAT you need to be “in business”. In VAT terms, “in business” means that you are carrying on any continuing activity which is mainly concerned with making supplies to others in return for a consideration. You do not necessarily have to make, or aim to make a profit to be considered “in business”. If you make an isolated transaction you will not normally be considered “in business” for VAT purposes. For example, if you sell your car that has not been used in a business this will be a private sale and not considered a business transaction. However, if you regularly sell cars with the aim of receiving an income you will be considered to be “in business”.

Business includes:

- self-employed persons carrying on any trade, vocation or profession, as well as companies, partnerships or other corporate entities, with the aim of earning an income;
- the provision of membership benefits by clubs, associations and similar bodies in return for a subscription or other consideration; and

- the admission to premises for a charge.

It may also include:

- the activities of clubs and other recreational bodies, and
- some of the activities of charities and non-profit making bodies.

However, even if your activities have some or all the characteristics of a business, they are not business if they are essentially a recreation or hobby and the making of taxable supplies is only incidental to this. In addition, the supply by an employee to an employer under an employment contract is not a taxable activity.

What are taxable supplies?

You make taxable supplies in The Bahamas when you are registered for VAT and:

- you make a sale in return for a consideration which is usually in the form of money, but can also be in the form of goods or services provided instead of money, as in barter transactions;
- you make the sale in the course of operating your business: this includes the sale of items such as office equipment, plant and machinery;
- the sale is made in The Bahamas; and
- the sale is subject to VAT either at the zero rate or standard rate.

A sale of goods is made in The Bahamas if the goods are:

- delivered or made available in The Bahamas to the purchaser; or
- physically removed from The Bahamas as an export.

Although the sale of goods exported from The Bahamas is technically made in The Bahamas, it is subject to VAT at the zero rate (see section "VAT rates").

A sale of services is made in The Bahamas if the service is enjoyed or the benefit is received in The Bahamas, or if the supplier is established in The Bahamas. Exported services supplied by a business in The Bahamas are considered to be supplied in The Bahamas but subject to VAT at the zero rate (see section "VAT rates").

A sale of utilities such as water and electricity is made in The Bahamas if the utilities are received in The Bahamas.

VAT rates

There are two rates of VAT, depending on the goods or services the business provides. The rates are:

- standard – 7.5%
- zero – 0%

There are also some goods and services that are:

- exempt from VAT; or
- outside The Bahamas VAT system altogether

Standard-rated supplies

All goods and services supplied in The Bahamas which are neither subject to the zero rate nor exempt from VAT, are subject to VAT at the standard rate.

Zero-rated supplies

A zero rated supply is a taxable supply albeit at the zero rate. This point is important when determining whether you can recover VAT on costs because you can generally reclaim VAT that you have paid to your suppliers if the goods or services purchased are used to make a taxable supply. Zero rated supplies are detailed in the First Schedule of the VAT Bill.

The zero rate of VAT generally applies to exported goods and services, for example:

- services that relate to land and property situated outside of The Bahamas;
- goods physically removed from The Bahamas; or are outside The Bahamas at the time of supply;
- certain professional, financial and insurance services where the benefit is obtained outside The Bahamas; and
- the transfer of a business by one registrant to another.

Exempt supplies

The Second Schedule of the VAT Bill provides a full list of goods and services that are exempt from VAT.

Some examples include:

- domestic financial services, other than those provided for an explicit fee;
- certain domestic insurance services;
- medical services where provided by a public healthcare facility to a public patient;
- certain educational services;
- the sale of a residential building;

- the sale of vacant land;
- certain services supplied by Government departments;
- gambling and lotteries; and
- certain charitable activities

If you make a supply of goods or services that is exempt from VAT, you cannot recover any VAT you have paid to your suppliers on goods or services used to make the exempt supplies.

What do I charge VAT on?

If you are registered for VAT, you charge VAT at the applicable rate on any supply of goods or services that is subject to VAT.

If you use goods or services on which you have reclaimed VAT for a private use, you are making a self-supply for VAT purposes. You should account for output tax on this supply. This includes goods or services used not only by you personally, but made available to friends, employees and family even if there is no consideration provided for the use of the goods or services.

If you dispose of goods which form part of the assets of your business, for example, you sell them, give them away or take them into private use, this is normally a supply for VAT purposes and, where it is a taxable supply, you will have to account for VAT on the disposal.

However, different rules apply if you sell your business as a going concern (see section "Transfer of a going concern").

VAT may also be due on inventories and assets on hand when you cancel your VAT registration unless you are selling the business as a going concern.

You do not need to charge VAT on a supply of goods or services that is exempt from VAT, or goods or services you supply before you are registered for VAT.

In a normal arms-length transaction the value of the supply of goods or services will be the amount of consideration paid. If the consideration includes VAT then you need to apply the VAT fraction to calculate the amount of VAT paid. For example, the cost of a computer is advertised at \$600 inclusive of VAT.

The VAT element of this supply will therefore be:

$$\$600 \times (3/43) = \$41.86$$

If you offer a discount or rebate at the time of supply, then the VAT should be calculated on the amount paid or payable less the discount or rebate. For example, if you provide a discount for early payment you should charge VAT on the discounted amount, irrespective of whether your customer complies with early payment and takes the discount or not.

If you receive goods or services as a means of payment it is the money's worth of those goods or services that is the consideration. For example, you may normally charge \$200 including VAT for bookkeeping services but instead of payment in cash your client offers to paint your fence. It may normally cost you \$300 to get your fence painted; however, the value to you is the price you would normally charge for your bookkeeping services.

If you bought goods or services for a business use and recovered VAT on the cost as input tax and then put those goods or services to a non-business use this is a supply for VAT purposes. The value of this supply would be the lesser of the cost of those goods or services or the fair market value. The value can be apportioned for part business and part non-business use. For example, if you let your staff use business assets for their own use this is a supply for VAT purposes including temporary use of business assets.

In addition, if you keep business assets following cancellation of your VAT registration and you originally recovered VAT on the cost of those assets as input tax, this is a self-supply for VAT purposes and will be subject to VAT.

There are also different rules that apply to transactions between related parties. Related parties are defined in Section 7 of the VAT Regulations and generally includes relations, beneficiaries, companies under common control (i.e. where you hold 25% or more of the shareholding directly or indirectly). The value of transactions between related parties is considered to be the consideration paid, unless the consideration is less than the fair market value of the goods or services supplied. If this is the case then the value of the supply is considered to be the fair market value.

Mixed supplies

In some instances you may make a supply of both goods and services, or you may supply goods or services that are subject to VAT at different rates. Wherever possible, you should treat each element of a supply separately. For example, if you supply goods with transportation you should treat the supply as a separate supply of goods and a separate supply of transportation services, each element taking on the respective VAT treatment. If you cannot treat the elements separately then the VAT treatment will be that of the predominant element of the supply.

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

Retail sales

If you make retail sales you can issue a simplified VAT invoice whereby items subject to VAT (or not) can be identified on the receipt with a symbol such as an asterisk, provided the total amount of VAT is clearly shown on the receipt.

The method of identification must be clearly displayed so that customers can determine what is subject to VAT and at what rate before they pay for the goods.

Pricing

All prices displayed must include VAT. Labels on goods and prices displayed on the shelf must be **inclusive** of VAT. You must also clearly display a sign that states that your prices are inclusive of VAT. If you display a list of items (for example on a menu or a price board) the price must be inclusive of VAT and you must display a declaration that clearly states that your prices are inclusive of VAT.

In respect of calculating the price of goods and services that are subject to VAT, when determining the price to charge your customer you should remember that the VAT you incurred on purchases directly relating to the goods or services you are supplying can be recovered and should therefore not be a cost component of the end supply.

For example, in a transaction where a retailer imports goods of an import value of \$40 + \$3 VAT and applies a 25% mark up to determine the selling price, the calculation of the selling price would be:

$$\$40 \times 25\% = \$50 + \$3.75(7.5\% \text{ VAT}) = \$53.75$$

The \$3 VAT paid on the importation of the goods can be recovered as input VAT by the retailer and should not become a cost component of the sale of the goods.

Tax point or time of supply

The tax point, or time of supply, is the date when a sale is considered to take place for VAT purposes. There are rules that tell you if this is the date of the actual supply, the date of the invoice or some other date, depending on the circumstances.

It is important to put the correct date for the time of supply on your invoice, because both you and your customer will need this information to make sure the VAT on the invoice is accounted for on the correct VAT Return.

You must issue invoices within 60 days of the actual supply taking place, although it is recommended that you raise your invoices within 28 days of a supply to enable your customers to recover any VAT charged.

The time of supply is the earliest of:

- the date an invoice is raised;
- receipt of payment;
- the date goods are delivered or made available to the recipient; or
- the date the performance of services is completed.

The time of supply of:

- goods under a credit agreement - is the date the agreement commences.
- goods under a lay-away agreement - is the date the goods are handed over or delivered to the purchaser.
- supplies under a rental agreement that require periodic payments - is the date payment becomes due or is received whichever is the earlier.
- a supply of goods under a hire purchase agreement or agreement whereby the hirer has the option to return the goods - is the date the goods are made available to the recipient.

How do I account for VAT on the goods and services I supply?

The VAT on your supplies is called output tax. You declare your output tax on your VAT Return. You must declare all sales which fall within the VAT period on the relevant VAT Return. For example, if you submit monthly VAT Returns, all sales that occur in March must be included on the March VAT Return.

Your input tax is offset against your output tax and you pay to the Comptroller the balance. Sometimes the input tax may exceed the output tax in which case you may be able to request a refund (see section "When can I claim a refund of VAT?").

What if my customer has not paid me?

You must still declare the sale in the VAT period in which the time of supply occurred. When you write off the amount owed in your records you can make an adjustment by claiming as input tax the amount previously declared as output tax. If you subsequently receive payment from your customer you must make the necessary adjustments to your VAT Return.

THE RECOVERY OF VAT ON PURCHASES

The VAT you pay to your suppliers is referred to 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 where the supplies are liable to VAT at the standard rate or the zero rate. 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?

There is some expenditure for which you cannot reclaim input VAT. These items of expenditure can be found in Section 50 of the VAT Bill.

You cannot recover VAT paid on goods or services that are not used, or intended to be used, in the course or furtherance of a taxable activity carried on by you. If you buy goods and services that are going to be used in both your business and personally, you must apportion the VAT paid between business and non-business use, and only reclaim the VAT on the business use.

The following are other instances in which you cannot reclaim VAT as input tax:

- you have not paid the import VAT to which the reclaim relates;
- you do not hold the necessary documentation to validate the reclaim;
- you cannot recover VAT paid on the purchase, maintenance or repair of a passenger vehicle unless it is used for the taxable activity of hiring of the vehicle, selling the vehicle or providing transportation services. "Passenger vehicle" includes a motorcar, station wagon, sport utility vehicle, or other road vehicle principally designed for transportation of people, but excludes a pick-up truck exclusively used for commercial purposes. Commercial vehicles are not passenger vehicles so you can recover VAT on the purchase, repair and maintenance

of a commercial vehicle provided it is used exclusively for a taxable activity;

- you cannot recover VAT paid on entertaining, unless you are in the business of providing entertainment or the entertainment is wholly for an employee or employees as part of a reward for services rendered. Entertainment means food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality of any kind;
- you cannot recover VAT paid on fees or subscriptions paid in respect of membership to a club, association, or society of a sporting, social or recreational nature; and
- you cannot recover VAT paid on petroleum products that are not wholly for use in respect of a taxable activity. For example, you cannot recover the VAT on fuel used by a director where the vehicle is used to go to and from the office.

You cannot reclaim VAT on costs that relate to exempt supplies.

Where costs relate to both taxable and exempt supplies you need to apportion the VAT in relation to the value of the supplies made. The Regulations provide a standard method of apportionment for you to use to calculate the amount of input tax you are entitled to claim.

Standard method of apportionment

The standard method formula is 'A x (B/C)'

- A = the total amount of residual input tax for the period (residual input tax is the total input tax less the input tax directly attributed to taxable or exempt supplies)
- B = the total value of all taxable supplies
- C = the total value of all supplies

You must do this apportionment calculation every VAT period then at the end of 12 months you must do an annual adjustment. The annual adjustment will smooth out the effect of any fluctuations in the amount of exempt and taxable supplies you have over the year.

Example:

In March a retailer sold \$40,250 of goods in total. \$8,000 related to exempt supplies and \$32,250 related to taxable supplies (\$30,000 + \$2,250 of VAT). The retailer also paid \$2,200 of VAT on goods that he had purchased. \$1,000 related directly to goods on which he charged VAT and \$1,200 related to overheads including VAT on rent and electricity.

STEP 1

Do the following calculation - divide the taxable supplies (including the VAT) by the total supplies. If the taxable supplies is more than 0.90 of the total supplies you can claim all the input tax you have incurred. If not you must go on to Step 2.

$\$32,250 / \$40,250 \times 100 = 0.81$ this is less than 0.90 so an apportionment calculation is required.

STEP 2

You must directly attribute any input VAT to supplies that are taxable or exempt - any VAT that you cannot attribute will relate to both taxable and exempt supplies and is referred to as residual input VAT.

\$1,000 directly relates to taxable supplies
\$0 directly relates to exempt supplies
\$1,200 relates to both taxable and exempt supplies and is the residual input VAT

STEP 3

You must apportion the residual input VAT using the apportionment method below.

$\$1,200 \times 0.81 = \972

STEP 4

You should only reclaim the portion of the residual input VAT that relates to taxable supplies and the amount of input VAT you have directly attributed to taxable supplies.

You can reclaim \$1,000 input VAT directly relating to taxable supplies and \$972 residual VAT. Your total input tax reclaim for March would be \$1,972

Step 1 is generally referred to as the *de minimis* rule. There is no *de minimis* rule for businesses providing financial and insurance services (further information can be found in the guide “VAT Guidance for Financial and Insurance Services”).

To do the annual adjustment you simply do the apportionment calculation but use the figures for the last 12 months. You should include the annual adjustment in your next VAT return.

If you feel that the standard method of apportionment described above does not give a fair and reasonable allocation of costs to taxable and exempt supplies, you can apply to the 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.

What if I put goods or services to a different use?

If you intended to use goods and services for a taxable purpose and claimed the VAT on the cost as input tax but put them to a different use which does not provide for the recovery of VAT on the cost, you are making a self-supply of those goods or services and must declare output tax on the value. Where only part of the goods or services are put to a different use you must apportion the value (the value being the lower of the original cost or the fair market value). You do not need to declare a self-supply if the value applied to a different use is less than 10% of the original cost.

What are the timescales for reclaiming input tax?

You should normally reclaim input tax on the VAT Return for the period during which the supplier's tax point occurred or, for imported goods, the date of the importation. You must also hold the associated evidence to reclaim a deduction of input tax. If you are unable to reclaim input tax in the normal period because you do not hold the necessary evidence, you should reclaim the input tax on the next VAT Return for the period during which you receive that evidence.

Can I reclaim input tax on goods and services I received prior to VAT registration?

You may submit a claim to the Comptroller for import VAT or VAT you have been charged on goods and services you have purchased up to 24 months prior to VAT registration, provided you will use the goods or services to make supplies that will be subject to VAT after you are registered for VAT.

What if I make an error when completing my VAT Return?

If you make an error in the VAT amount you declare as output tax or input tax, you can adjust your next VAT Return provided the error does not exceed \$500. Errors exceeding this amount should be notified to the Comptroller; however, if the discovery of the error is not prompted (for example by the arrangement of a visit by the Comptroller) and is not considered deliberate, you will only be charged interest on any amounts owed to the Comptroller and you will not incur a fine.

How often do I have to submit a VAT Return?

Businesses whose annual turnover exceeds \$5 million are required to submit a monthly VAT Return.

Businesses with an annual turnover of less than \$5 million but more than \$0.4 million will be required to file a quarterly VAT Return.

Businesses with an annual turnover of less than \$0.4 million can apply to submit a semi-annual VAT Return.

If you submit a quarterly VAT Return, you must state which VAT stagger you wish to be placed on when you register for VAT.

VAT Stagger 1: VAT periods ending March, June, September, December.

VAT Stagger 2: VAT periods ending April, July, October, January.

VAT Stagger 3: VAT periods ending May, August, November, February.

VAT Returns need to be filed within 28 days of the end of the VAT period.

When am I required to pay any VAT due?

You are required to pay any VAT due to the Comptroller 28 days after the end of the VAT period so effectively you need to file your VAT return and pay any amount due by the 28th day of the month following the last day of a VAT period. For example if your VAT period end is April 30th, you are required to file your VAT Return and pay any VAT due by midnight on May 28th.

Filing in your VAT Return

If you are VAT-registered, you will have to submit a VAT Return at regular intervals. The VAT Return shows:

- the VAT you have charged on your sales to your customers in the period - known as output tax; and
- the VAT you have paid on your purchases - known as input tax.

If the amount of output tax is more than the input tax, then you pay the difference to the Comptroller.

There are two schemes that some businesses can use to help them work out and pay their VAT. There is the Cash Accounting Scheme and the Flat Rate Scheme. It is recommended that all businesses that have annual turnover of less than \$0.4 million apply to use one of these schemes.

What is the Cash Accounting Scheme?

The Cash Accounting Scheme lets businesses account for VAT on a cash basis. This means that you would only declare your output tax on the VAT Return in the period in which your customer paid you. Similarly, you would only declare and reclaim your input tax on the VAT Return in the period when you paid your suppliers. This scheme is designed to help you manage your cash more effectively.

What is the Flat Rate Scheme?

The Flat Rate Scheme has been introduced to assist businesses that make supplies of goods or services at the standard rate of VAT with the administration of VAT. You must apply to the Comptroller for permission to use the scheme. If you use the Flat Rate Scheme, you must still charge and collect VAT on your supplies at the standard rate. However, rather than calculating your input tax each VAT period you apply the flat rate of VAT (which is less than the standard rate of VAT) to your net sales and pay this amount to the Comptroller.

For example

You are a lawyer who provides \$30,000 of services in a month. You will raise invoices for \$30,000 + VAT at 7.5%, therefore collecting \$2,250 of VAT from your customers. Rather than having to track, record and calculate the amount of input VAT you can recover on purchases, you apply a flat rate of VAT of, say, 5% to your net sales (i.e. $\$32,250 \times 5\% = \$1,612$). Although you have collected \$2,250 of VAT from your customers, you pay to the Comptroller \$1,612.

The scheme is purely designed to alleviate the administrative burden on small businesses, not to provide a tax advantage, although some businesses may gain a small advantage whereas others will not.

Once you have adopted the Flat Rate Scheme, you must use the scheme for at least 2 years before you can apply to come out of the scheme.

If you are on the Flat Rate Scheme you cannot recover any VAT incurred on purchases as input tax.

Further details can be found in "VAT Guidance on the Cash Accounting and Flat Rate Schemes".

When can I claim a refund of VAT?

If your input tax exceeds your output tax you will be due a refund.

If 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. 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.

Record keeping and accounts

You must keep a record of all your supplies and purchases. This means keeping a copy of all sales invoices, debit and credit notes, receipts, and all purchase invoices either in paper or electronic form. All sales invoices must be sequentially numbered so if you spoil an invoice and have to issue a new one you must keep a copy of the spoiled invoice. If you do not hold a copy of an invoice on which you have paid VAT or import documents showing the VAT amount, you are not entitled to recover the VAT on these costs, so it is very important that you keep these documents.

The records you keep must be such that the Comptroller can determine, with reasonable accuracy at any time, the liability of the taxable person to pay tax. In this respect you should maintain a copy of your normal accounting records, for example:

- an up-to-date list of your sales and purchases;
- income and expense accounts;
- cash register rolls, audit rolls, and tapes or similar records;
- bank statements;
- records of supplies to staff and directors or self-supplies;
- accounting instruction manuals, systems, programs and any relevant documentation in use to describe the accounting system; and
- other records as required by the Comptroller.

You should also keep a VAT file with a copy of each VAT Return submitted with the supporting calculations providing an audit trail back to the sales and purchase records. This would include a record of any apportionment calculations you have made and any VAT adjustments.

These records should be kept for 5 years.

IMPORTS

Goods and services that are imported into The Bahamas are subject to import VAT if they would have been subject to VAT if supplied by a business in The Bahamas. This also ensures that a business in The Bahamas is not disadvantaged by having to charge VAT and can compete on equal terms with businesses not established in the Bahamas.

Goods and services that are exempt from VAT are therefore also exempt from import VAT.

Goods

Goods are subject to import VAT at the time the goods are entered for home consumption in accordance with the Customs Management Act. Payment of import VAT on goods is collected by the Comptroller of Customs, so you pay the import VAT at the same time as you pay the Duty.

Some businesses may be able to apply to defer payment of import VAT until the VAT return for the period in which the import VAT was incurred is filed.

The value of goods imported on which the VAT is calculated is the total of the:

- customs value of the goods for the purposes of customs duty under the Customs Management Act;
- amount of any customs duty, excise tax, environmental levy or surcharge, or any other fiscal charge or tax (other than VAT) payable on the importation of goods; and
- amount of any customs service charge payable on the importation of the goods.

Import VAT paid can be recovered as input tax on your VAT Return provided it relates to a taxable supply.

Import VAT is not due on goods temporarily imported into The Bahamas.

Importations by Bahamian nationals returning home

A Bahamian national who is returning home for permanent residence in The Bahamas may apply for an exemption from import VAT. The exemption is generally limited to the national's personal and household effects (depending on certain conditions being met).

Details of who can claim and to what the exemption applies to can be found in Section 20 of the VAT Regulations.

Services

The rules in relation to imported goods and services relate to both natural persons and businesses.

Import VAT is due on a service imported into The Bahamas if that service would ordinarily be subject to VAT if supplied by a business located in The Bahamas. There is therefore no import VAT due on services imported into The Bahamas that are ordinarily exempt from VAT or subject to VAT at the zero rate if supplied in The Bahamas.

A service is imported into The Bahamas if the place of supply of that service is in The Bahamas. Ordinarily the place of supply of services is where the supplier is located; however, if the benefit of a service is enjoyed in The Bahamas, it is generally considered that the place of supply is The Bahamas.

There are some specific rules for certain services:

- if the services relate to cultural, artistic, sporting, educational, or similar activities, or relate to personal tangible property, the place of supply is where the activity takes place.
- if the services relate to real property, the supply takes place where the property is located.
- a supply of services of, or incidental to, transport takes place where the transport occurs.

The following services are supplied where the customer uses or obtains benefit or advantage of the services, irrespective of the above rules:

- a transfer or assignment of a copyright, patent, licence, trademark, or similar right;
- the services of a consultant, engineer, lawyer, architect, accountant, person processing data or supplying information, or any similar services;
- an advertising service;
- the supply of personnel;
- the service of an agent in procuring for a principal a service referred to in this subsection;
- the lease of tangible personal property, other than transport of property;
- the supply of goods via electronic commerce and the supply of internet access and similar services; and
- the obligation to refrain from or pursuing or carrying on a taxable activity or exercising a right falling within the above services.

The importer of the services is responsible for declaring the importation although the importer and recipient of the services are jointly liable for payment of import VAT.

When the services are completed or the person or persons contracted to perform the services enter The Bahamas, the importer must:

- submit an import declaration to the Comptroller; and
- pay the VAT due on the import:
 1. where the recipient is not a taxable person, within 7 days of the import;
 2. where the recipient is an unregistered taxable person, on the date stated on the notice of assessment;
 3. where the recipient is a taxable person, within 28 days after the tax period in which the services were imported.

Some businesses may be able to apply to defer payment of import VAT until the VAT return for the period in which the import VAT was incurred is filed.

If the imported service relates to a taxable supply, you can recover the VAT declared on the imported service as input tax.

If you are declaring the imported service on your VAT Return, the time of supply is the earliest of:

- the date of payment;
- the date of the invoice; or
- the date the performance of services is completed.

The value of an imported service is normally the consideration paid or payable; however, if a person imports services supplied by a related person and there is no consideration paid or the consideration is less than the fair market value, the value of the imported services will be the fair market value.

How do I account for deferred 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.

EXPORTS

Goods that are exported from The Bahamas are subject to VAT at the zero rate. This means that you do not have to charge VAT on your supply of exported goods but you can recover, as input VAT, any VAT you have incurred on costs relating to the supply of the exported goods.

An exporter must, in order to obtain zero rating, identify goods at the port of exit and present any documents required by the Comptroller of Customs.

Services supplied by a business in The Bahamas that are exported are also subject to the zero rate of VAT, which means that input VAT can be recovered on any costs incurred in providing the exported services.

The following services are zero-rated exported services:

- services directly relating to land situated outside The Bahamas;
- services in respect of personal property that is situated outside The Bahamas at the time the services are provided;
- services relating to goods that are in The Bahamas under temporary importation in accordance with the Customs Management Act;
- services relating to the repair, maintenance, cleaning, outfitting, refurbishment, or improvement of a foreign-going aircraft or vessel;
- a supply of freight and insurance directly relating to a supply of exported goods;
- a supply of services made directly (not through an agent) to a non-taxable person resident outside The Bahamas which comprises of or the arranging of the storage, repair, maintenance, cleaning management, or arranging the provisions of a container temporarily imported under the Customs Management Act;
- a supply of services to a non-resident owner of a ship or aircraft by a port authority (within the meaning of Section 2 of the Port Authorities Act (Ch. 269)) or the manager of an airport in relation to a foreign going vessel or aircraft used in international commercial services;
- services relating to the export of goods supplied to a non-taxable person resident outside The Bahamas;
- services relating to the transmission of calls and other telecommunication services supplied to a telecommunications carrier not conducting business in The Bahamas, that is not for use of persons in The Bahamas and where the registrant supplier does not charge an interconnection fee for providing services;
- a supply of international transport services;
- a supply of professional services where the place of supply is outside The Bahamas, including such services as legal, engineering, consultancy, accountancy, insurance, and advisory services;
- supplies of services consisting of:
 - the filing, prosecuting, grant, maintenance, transfer, assignment, licensing, or enforcement of any intellectual property rights for use outside The Bahamas and incidental services thereto; and
 - the acceptance by a person of an obligation to refrain from pursuing or exercising, in whole or in part, any intellectual property rights for use outside The Bahamas; and
 - international services including financial services, provided to a person treated as non-resident for the purposes of the Exchange Control Regulations.

Imports and transactions within the Port Area

Within the Hawksbill Creek Agreement, Clause 2 states that all materials, supplies and things of every kind and description *other than consumable stores* which is of the opinion of the Port Authority necessary for the dredging, construction and erection, air-conditioning, equipping, fitting out, furnishing, landscaping, extension, completion, repair, maintenance, replacement and operation of “the Port Area Development” may be imported or removed from bond by the Port Authority or Licensee free of all Customs Duties and taxes. This includes manufacturing supplies and administrative supplies as described within the Agreement.

VAT will therefore not apply to the importation or removal from bond, by the Port Authority or a Port Licensee, of goods outlined in Clause 2 of the Hawksbill Creek Agreement and to which no Customs Duties apply. VAT will also not apply to any goods outlined in Clause 2 if supplied by the Port Authority to a Port Licensee or by one Port Licensee to another.

It should be noted that “consumable stores” are excluded from duty free goods outlined in Clause 2, so the import and supplies of these goods will be subject to VAT. These include any article or thing imported for the personal use of a person or made available after its importation for the personal use, whether that person is employed or resident within the Port area or not. They also include articles sold to passengers, officers or crew of any ship, vessel or yacht including fuel and bunker supplies, except where provided to a vessel of 1,500 net tons or more.

Any transaction that is not included in Clause 2 of the Hawksbill Creek Agreement will be subject to the normal rules outlined in the VAT Bill 2014 and VAT Regulations.

For clarification,

- If a Port Licensee makes a supply of goods to a person in The Bahamas but outside the Port Area, this will be subject to VAT if it is a taxable supply.
- If a Port Licensee makes a supply of goods that are not covered by Clause 2, irrespective of who the goods are supplied to, the supply will be subject to VAT if it is taxable supply. Goods and services that are exported outside The Bahamas, in accordance with the VAT Bill and VAT Regulations, are subject to VAT at the zero rate.
- If a taxable person outside of the Port Area supplies goods covered by Clause 2 to the Port Authority or a Port Licensee, they have to charge VAT. The Port Authority or a Port Licensee that incurs VAT on goods covered by Clause 2 can submit a claim for the repayment of the VAT incurred to the Comptroller.
- Services provided by one Port Licensee to another are subject to VAT unless exempt in accordance with the VAT Bill 2014 Schedule II.

Further details can be found in the VAT guidance “VAT and the Hawksbill Creek Agreement”.

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.

Transfer of a going concern

The sale of a business by a VAT-registered supplier would ordinarily be subject to VAT. This can cause problems in respect of cashflow for the buyer, as they would need to pay the seller VAT and then claim it back on their VAT Return. To assist with the ease of a transfer of a business, the Comptroller provides a concession whereby the transfer of a business that is a going concern is subject to VAT at the zero rate. This means that the seller can recover the VAT on the costs incurred in selling the business and the buyer does not have the cashflow issue in respect of acquiring the business.

There are certain conditions that have to be met for the sale of a business to be treated as a transfer of a going concern. For example:

1. If the business is a taxable business, both the seller and the buyer have to be registered for VAT before the transaction takes place.
2. The business being transferred has to be a going concern, in that it is not dormant or a prospective business but one that is in an income producing activity.
3. If part of the business is being sold, that part must be capable of operating as a going concern separately from the rest of the business. The buyer does not have to undertake the same taxable activity as the seller.
4. Notice in writing has been submitted on the necessary form signed by both the seller and the buyer, 14 days prior to the date of the sale or transfer.

The business being transferred does not have to be profitable, for example, the business may be being transferred to a liquidator or receiver. If you intend to change the legal status of a business, such as a change from a partnership to a company, this transfer can also be treated as a transfer of a going concern.

Details of all the conditions for a transfer of a going concern can be found in Section 16, Part II of the VAT Regulations.

Objections and Appeals

The Comptroller may disagree with a VAT Return and order the payment of an administrative fine if it is determined that there has been a contravention of the VAT Bill and VAT Regulations or the Comptroller may send a warning letter. Non-compliance of the VAT laws range from minor to very serious. Where the Comptroller is satisfied that an offence has been committed, they may also elect to proceed by instituting criminal proceedings.

If aggrieved by an appealable decision of the Comptroller, you may lodge an objection with the Comptroller. If you are not satisfied with the decision of the Comptroller, then you may appeal to the VAT Appeal Commission and, if still not satisfied with the decision of the VAT Appeal Commission, you may then take the matter to the Supreme Court.

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:

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Ministry of Finance
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