

Ministry of Finance

VAT Department

VAT Guidance for the Holiday Accommodation 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 holiday accommodation 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").

Who should read this guidance?

You should read this guidance if you are providing, or looking to provide, hotel or other types of holiday accommodation in The Bahamas. This includes accommodation in a condo or condo hotel, villa, timeshare property, holiday home, bed and breakfast, motel, boarding house, guest house, hostel or similar establishment.

What is holiday accommodation?

Holiday accommodation includes accommodation in a hotel, motel, inn, boarding house, guest house, hostel or similar establishment where the accommodation is usually provided on a short term basis, i.e. less than 45 days. In such establishments, the provision of accommodation is considered holiday accommodation irrespective of the duration of the stay.

The VAT Regulations define a "hotel" as a hotel, motel, inn, boarding house, guest house, hostel, or similar establishment in which lodging is regularly or normally provided to five or more persons at a daily, weekly, monthly or other periodic charge.

Holiday accommodation also includes the provision of furnished sleeping accommodation in a condo, house, apartment or room where the accommodation is usually provided for short-term stays of less than 45 days.

The rental of accommodation in a condo, timeshare, or house, acquired by a non-resident under the International Persons Landholding Act (Ch 140) where the permit specifies that the accommodation will be used for rental purposes would be a supply of holiday accommodation.

Residential accommodation is not holiday accommodation. Residential accommodation includes accommodation in a condo, house, apartment, timeshare, room, caravan, houseboat or tent where the accommodation is provided as a place of residence or abode for a person or persons. In this respect the accommodation is likely to be provided for a duration of over 45 days.

Is the supply of holiday accommodation subject to VAT?

Yes. A supply of holiday accommodation is subject to VAT at the standard rate of 7.5%.

For avoidance of doubt, a supply of a condo that is part of a hotel complex, including a condo that is part of a rental pool, is made in the course or furtherance of a taxable activity regardless of the value of the taxable supplies associated with such condo within any period of ninety days.

What if a visitor wants to stay for 45 days or longer?

Accommodation provided in a motel, inn, boarding house, guest house, hostel or similar establishment will be subject to VAT irrespective of the duration of the stay.

If you occasionally make a supply of holiday accommodation for a continuous period of 45 days or more your supply will still be subject to VAT. However, an isolated, one-off supply of property used as a dwelling made by a person independent of any other taxable activity is not treated as a taxable activity.

Remember your supply is only exempt from VAT if you are providing a place of residence for a person or persons.

If you regularly rent out your accommodation for continuous periods of more than 45 days you are unlikely to be making supplies of holiday accommodation. Such supplies are more likely to be considered supplies of residential accommodation.

What if I supply other services with the accommodation?

Hotels will often provide other services with the accommodation. Some examples are as follows:

- a charge for internet access in the room;
- a charge for extra TV channels;
- charges for viewing movies;
- an extra charge for a room with a balcony or with a better than standard view;
- a charge for the use of a child cot or crib;
- use of sporting facilities such as the gym, tennis courts or golf course;
- use of the spa;
- tours of the island;

- snorkelling or fishing;
- entrance to a casino game;
- food and beverages supplied in restaurants;
- administration and service charges, including mandatory service charges; or
- resort levy.

These services are also subject to VAT at the standard rate. VAT will not apply to gratuity that is collected for payment as part of employees' compensation.

What about functions and business facilities?

Supplies of facilities for business meetings, merchandise displays, trade exhibitions, weddings, banquets and other such events are subject to VAT at the standard rate. The supply of food and drink at these events is also subject to VAT at 7.5%.

What is the VAT treatment of casino income?

Games of chance, gambling and lotteries within the meaning of the Lotteries and Gaming Act are exempt from VAT. This means that you do not have to charge VAT on the provision of such activities. If you provide other facilities within the casino (for example, you serve refreshments) you need to consider whether these are taxable supplies. If you have a casino in your hotel you will be restricted from recovering VAT you incur on costs relating to the casino (see section "What can't I reclaim as input tax?").

What about accommodation provided on yachts?

If you charter a yacht, with or without a crew, and the charter commences in The Bahamas your supply will be subject to VAT at the standard rate.

Who should register for VAT?

Any person or business providing holiday accommodation is undertaking a taxable activity. If you undertake such an activity and the income from this activity and any other taxable activity you undertake, exceeds the VAT registration threshold in any 12 month period or you expect to exceed the VAT registration threshold in the next 365 days you are required to register for VAT. The VAT registration threshold is \$100,000 of taxable supplies.

What if a condo or similar accommodation is provided to visitors through a pool?

Where the accommodation is provided in condos or other such accommodation that forms part of a pool or other collective rental arrangement, it is the administrator who is required to register for VAT. The administrator is treated as making the supply of the holiday accommodation, and possibly other services to the guests. However, if the condo pool administrator does not register and declare any VAT due as required, the condo owner will be responsible for charging, declaring and paying any VAT due. When determining whether the VAT threshold for registration has been exceeded the administrator of the pool should consider the collective income received from the rental of all the condos in the pool.

The supply by the owner of the condo to the administrator of the pool is considered to be a long-term supply and exempt from VAT, therefore there is no requirement for the owner to register for VAT.

What if I own a condo and supply it directly to visitors, i.e. not through a pool?

If you supply a condo or other such accommodation on a short-term basis you will be making taxable supplies and will need to consider whether there is a requirement to register for VAT. If the income from any taxable supplies you make exceeds the VAT registration threshold of \$100,000 in a 12 month period or you expect to exceed the threshold in the next 365 days you will be required to register for VAT. Once registered for VAT you will be required to charge VAT on any short-term supply of the accommodation. If you are registered for VAT you will be able to recover VAT on any costs that relate to your taxable supplies (see sections "What can I reclaim as input tax?" and "What can't I reclaim as input tax?"). You may still voluntarily register if your supplies do not or will not exceed the VAT threshold.

Tour packages sold to travel agents or tour operators.

You should charge VAT on the wholesale price charged to the travel agent or operator for the accommodation or any other services provided. If the agent operates on a commission and charges you as the hotel operator, the commission is a supply of services by the tour operator to you. If the tour operator is in The Bahamas they will charge you VAT which you can recover provided it relates to taxable supplies. If the tour operator is located outside of The Bahamas and they charge you a commission on the sale of the hotel accommodation this is an imported service. For the VAT treatment of imported services see section "Buying goods and services from suppliers outside The Bahamas".

If the tour operator does not charge you commission but includes the commission in the cost of the holiday to the customer there is no further supply to you the hotel operator and as such you need take no further action. In this case it is the net revenue recognized by the hotel and not the retail price paid by the client that is subject to VAT. The tour operator's retail supply in this instance is to the customer rather than to the hotel operator.

Packages, accommodation or flights sold by tour operators or travel agents.

Travel agents in The Bahamas must charge VAT on any separate administration charge they make for processing a booking with a hotel or airline. This is irrespective of who the customer is.

If they charge a commission to a hotel or airline that operates from The Bahamas they either charge VAT on the commission or treat the commission as VAT inclusive and apply the VAT fraction of 3/43.

Tour operators in The Bahamas that sell packages need to consider where their customer is resident and the location of the holiday to determine the VAT treatment.

- If they sell holiday packages where the accommodation is in The Bahamas to other tour operators or individuals that are outside The Bahamas their commission will be subject to VAT at the zero rate.
- If they sell a package where the accommodation is in The Bahamas to a Bahamas resident or operator the commission on the sale will be subject to VAT.
- If they sell holiday packages where the accommodation is outside The Bahamas (irrespective of who is purchasing the package) the commission is zero rated.

How do I charge VAT?

For all taxable supplies you must provide the customer with a VAT invoice or receipt.

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 Tax Identification Number ("TIN");
- 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

Simplified invoice

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.

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.

A tax point is not created when you receive a booking unless payment is received with the booking or you raise an invoice to request payment.

Although payment of a deposit would normally create a tax point, if you receive a deposit for hotel or holiday accommodation you do not need to declare any VAT as output tax at the time the deposit is received. You should declare VAT on the total amount (including the deposit) when the customer pays or you raise an invoice, whichever occurs first.

If the customer cancels the booking and the deposit is forfeited then this is a taxable supply at the standard rate of VAT. The tax point will be at the time the booking is cancelled.

If you receive payment in advance then VAT will become due on the whole payment at the time of payment.

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 each month on your VAT Return. You must declare all sales which fall within the VAT period on the relevant VAT Return. For example, 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 of VAT ("Comptroller") the balance. Sometimes the input tax may exceed the output tax in which case you may be able to request a refund (see below).

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 that relates to supplies you make which 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?

You cannot reclaim VAT on goods or services that are not put to a business use. For example, your own living accommodation may be in part of the building you use as a guest house. If you buy furnishings for your own living accommodation you cannot claim the VAT you have been charged by the supplier of the furnishings as input tax.

If you own a condo that you let out to guests but it is also used by you, your family and friends then you can only recover VAT on costs that relate to the period of occupation by paying guests.

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.

Most suppliers of hotel accommodation will be able to recover all the VAT they are charged by suppliers provided the supplies are used to provide the hotel accommodation and other taxable services and facilities.

If you have a casino in your hotel you will not be able to recover VAT on your direct costs relating to the casino or apportioned overhead relating to the casino.

To determine how much VAT you can recover if you make both taxable and exempt supplies you should use the standard method of apportionment per the VAT Regulations or, if you do not consider

this method gives you 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.

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. 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 that are 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. For example, if a financial service is exempt from VAT in The Bahamas it will also be exempt

from VAT if imported. 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. Some businesses will be permitted to defer the payment of import VAT and declare any import VAT due on the next VAT Return. Further details can be found in the VAT Guide.

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 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

The following references to the legislation may be useful.

VAT Bill

Part II section 5 (2) - administration of condos

Part IV section 19 (2) - mandatory registration

Part IV section 21 (a) - registration threshold

Part V section 38 - calculation of the value of a hotel accommodation or tour package.

VAT Regulations

Definitions

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

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

Part 1 section 10 - commercial rental establishment

Part I section 11 - condos leased collectively

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

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