



MINISTRY OF FINANCE
THE DEPARTMENT OF INLAND REVENUE

THE BAHAMAS

GENERAL VAT GUIDE



DEPARTMENT OF
INLAND REVENUE
Central Revenue Administration

Introduction

This Value Added Tax ("VAT") guide aims to provide a general understanding of how VAT works, who needs to charge VAT and when. Further information can be obtained from industry specific guides, the Value Added Tax Regulations 2014 ("VAT Regulations"), the Value Added Tax Act 2014 ("VAT Act") as amended and the Value Added Tax ("VAT Rules") which can all be found on the website of the Government of The Bahamas ("Government"). If there is a discrepancy within the Guidance Note, the law will prevail in accordance with the VAT Act, Regulations and/or Rules.

What is VAT?

VAT is a tax that is charged on all goods and most 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. It is a consumption tax ultimately paid by the final customer but collected and remitted to the Comptroller of VAT ("Comptroller") by businesses.

VAT 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 taxes they have paid to suppliers against the output taxes they have collected from their customers. The difference between output taxes and input taxes is remitted to the Comptroller.

Example:

A= Wholesale & importer

B= Retailer

C= Customer

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

A sells the computer to B for \$537.50

(\$500 + VAT of \$37.50)

Disclaimer: VAT Guidance Notes do not supersede the VAT Act, VAT Regulations, or VAT Rules

The VAT Return submitted by A will show the following:

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

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 customer A

\$ 7.50 on the VAT Return submitted by customer B

A business is only permitted to charge VAT if it is registered for VAT. If your business is 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 (mandatory registrant) and do not register, then you will still be liable for any VAT that you should have charged your customers even though you did not charge VAT. You may also be required to pay interest and penalties. In addition, you may be subject to forced registration by the VAT Comptroller. It is important therefore to register as soon as you know you meet the turnover threshold. Any business not required to be registered for VAT with taxable supplies may still choose to register. Charging VAT when you are not registered for VAT is considered a very serious offence that can carry fines, imprisonment or both.

When would I be required to register for VAT?

If you are "in business" in The Bahamas and the goods or services you sell or provide are considered "taxable supplies", you must 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.

Please note that the term "supply" is used here to mean your sales or any services you offer, at the price at which you offer it to the public. It does not mean the cost or value of your goods in inventory.

The VAT threshold is currently \$100,000 of taxable supplies and applies even if you only intend to operate a business for a limited period of time. If you make any sales that are exempt, under the schedules to the VAT Act, you should not include, when determining if the \$100,000 threshold has been met. The requirement for public entertainment is more stringent. A lower annual threshold of \$50,000 applies while for the occasional; event promoter the Comptroller has to be notified in all cases at least 48 hours before the function is advertised.

You must 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 do not register for VAT when you should, you will still be a taxable person and can be held liable to account for VAT on your supplies even if you haven't charged it.

Once you are in business, you can choose to register for VAT if you make or intend to make taxable supplies, even if your business does not meet the mandatory threshold. 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 register for VAT as a part of a group of related businesses (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 VAT invoices, VAT sales receipts and when corresponding with the VAT Department.

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

After two 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. This option also exists if you registered voluntarily.

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 you 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.

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 for VAT registration 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; except where such membership is regulated by statute 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. 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 of goods or services 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").

In the case of land or real estate, the determination of whether it is a taxable supply is independent of whether you are VAT registrant. All conveyances of real estate are taxable at the standard rate, once the value of the conveyance exceeds \$100,000. In cases where a market price has not been disclosed, such as gifts, the VAT Comptroller can assess a market value for the transfer. In all cases, it is only the VAT Comptroller who is authorized to collect the tax on property transfers.

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 Act.

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 either in the context of Exchange Control Regulations or location of the recipient 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 Act 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; sale of life insurance and annuities; medical services where such are provided by a public healthcare facility to a public patient (such as an indigent, retired persons over the age of 65, children of school age); educational tuition and ancillary fees; the rental of a dwelling; certain services supplied by Government Departments; gambling and lotteries; certain charitable activities; and goods which are shipped or conveyed to the Bahamas for transshipment or conveyance to another country.

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 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 must 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 and/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 personal use this is a supply for VAT purposes, this includes a temporary use of business assets.

In addition, if you keep business assets following the 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 Regulation 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, if he is a VAT registrant, 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, with pre-printed sequential that has duplicate sheets. You can write in the specific details each time you issue an invoice.

A VAT invoice must show:

the word "VAT Invoice" in a prominent place; (the word "Tax" may also be used instead of VAT) the registrant supplier's tax identification number (TIN), name and address; the invoice identification (serial) number (if you spoil or cancel a serially numbered invoice, you must keep it as part of your records); registrant recipient's TIN, name and address; date of the invoice; the date of supply, if the supply was concluded, or payment made prior to the issuing of the invoice; in the case of services, the description and the value of the service; the rate and amount of any cash discount offered; for each item listed on the invoice: the unit price 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, total VAT charged; and the total price, inclusive of VAT, payable by the recipient.

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'; delivery notes; orders; or letters, emails or other correspondence.

Retail sales

If you make retail sales you can issue a simplified VAT invoice or a VAT Sales Receipt whereby items subject to VAT (or not subject to VAT) 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. The unit price of each item may be VAT inclusive or exclusive.

Please refer to the VAT Rule 2015-010 - Contents of a VAT Invoice and Receipt for further details.

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. Restaurants with dine-in table

service, however, may publish menus with the VAT exclusive price and the amount of VAT shown separately.

As a VAT Registrant, when calculating the price of goods and services that are subject to VAT, or 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 is as follows:

$$\$40 \times 1.25 = \$50 + \$3.75(7.5\% \text{ VAT}) = \$53.75$$

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.

If you are not registered for VAT, you can include the VAT paid to your suppliers in determining the final price of the item to be charged to your customer.

For example, in a transaction where a retailer purchases an item from a wholesaler at a value of \$45 + \$3.38 VAT and applies a 25% mark-up to determine the selling price, the calculation of the selling price is as follows:-

$$\$48.38 (\$45 + \$3.38) \times 1.25 = \$60.48$$

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 an invoice within 60 days of the actual supply taking place.

The time of supply is usually 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.

A supply of goods under consignment takes place when the goods are released to the recipient.

For more information on time of supply, rules see Section 32 of the Value Added Tax Act.

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 the balance is paid to the Comptroller. 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?

If you are on the invoice or accrual accounting basis, 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. If you

are on the cash accounting basis, you should only report sales for which you were paid.

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 subject 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 Act. You cannot recover VAT paid on goods or services that are not used, or not 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.

However, in the case of passenger vehicle, input tax can only be claimed if the passenger vehicle is used exclusively for the furtherance of the business activity and the vehicle is registered in the name of the VAT registrant (see Rule 2015-011 - Input Tax Credit for Passenger Vehicle).

The following is a non-exhaustive list of 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 exclusively inside the business.

- 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 or it is an expense directly related to the creation of a taxable activity. 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 (exclusive of VAT)

C = the total value of all supplies (exclusive of VAT)

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 is generally referred to as the *de minimis* rule. There are special *de minimis* rules for businesses providing financial and insurance services (further information on the apportionment formulas can be found in the VAT Rule 2015-017 - Apportionment Formula for Financial Institutions (Clearing Banks) and VAT Guidance for Insurance Services respectively).

To do the annual adjustment you use the apportionment calculation with 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.

The following demonstrates the use of the standard apportionment formula detailed in the VAT Act.

STEP 1

Divide the taxable supplies (excluding the VAT) by the total supplies. If the taxable supplies are more than 0.90 of the total supplies you can claim all the input tax you have incurred. If the taxable supplies are less than 0.10 of the total supplies you cannot claim any of the input tax you have incurred. If not continue on to Step 2.

$\$30,000/\$38,000 \times 100 = 0.789$ 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.

$$\$1,200 \times 0.789 = \$947$$

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 \$947 residual VAT. Your total input tax reclaim for March would be \$1,947

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 is 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 (the period in which it was supplied) 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 the 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 amend the VAT Return for the period in which the error was made. Errors of less than \$500 will be posted to the taxpayer's account and may be audited later. Errors amounting to \$500 and more will create a case on submission for review and may be audited immediately. 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 may only be charged interest on any amounts owed to the Comptroller and the associated fine may be waived.

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 and shall be required to file by electronic means and in such form and manner at specified times particulars of VAT invoices, credit and debit notes that were issued or received by the registrant.

Businesses with an annual turnover of less than \$5 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.

VAT Returns need to be filed within 21 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 within 21 days after the end of the VAT period so effectively you need to file your VAT return and pay any amount due by the 21st day of the month following the last day of a VAT period. For example, if your VAT period ended April 30th, you are required to file your VAT Return and pay any VAT due by midnight on May 21st. Taxpayers whose filing period is more than one month may be required by the Comptroller to pay VAT in monthly installments and reconcile the payments against the filing of VAT Return for the specific period.

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. Generally VAT is reported on the invoice or accrual basis, however, there are two additional schemes that some businesses can use to help them work out and pay their VAT. One scheme is the Cash Accounting Scheme, available for all business up to \$1 million in turnover. The second method is the Flat Rate Scheme, which is a further simplification of cash accounting restricted to business up to \$0.4 million in turnover. Only businesses wanting to use the Flat Rate Scheme must apply to the Comptroller. Others will be automatically placed on the relevant accounting scheme.

What is the Invoice or Accrual Accounting Scheme?

The invoice or accrual accounting scheme requires that businesses account for output VAT based on when the supply was accrued in their books, according to the time of supply rules and not solely when cash is received. This method requires the registrant to report VAT on all transactions, whether for cash or credit sales. At the same time, the registrant is allowed to claim input VAT on any invoices that they may have in their possession whether or not the invoice has been paid.

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. The only time of supply or tax point rule that becomes binding is the point at which payment is made.

What is the Flat Rate Scheme?

To further simplify cash accounting, 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. If you are approved to 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 4.5% to your gross sales receipts 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 the flat rate of VAT of 4.5% to your gross receipts (i.e. $\$32,250 \times 4.5\% = \$1,451$). Although you have collected \$2,250 of VAT from your customers, you will only pay \$1,451 to the Comptroller.

This scheme is 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 unless you exceed the threshold for the scheme, in which case you must notify the Comptroller who will remove you from the scheme.

If you are on the Flat Rate Scheme you cannot recover any VAT incurred on purchases (unless they are capital expenditures) as input tax.

Further details can be found in "VAT Guidance on the Cash Accounting and Flat Rate Schemes" and VAT Rule 2015-012 - Flat Rate Accounting Scheme and Requirements.

When can I claim a refund of VAT?

If your input tax exceeds your output tax you will have an excess credit and may be due a refund.

If your input tax exceeds your output tax, and you are required to submit monthly VAT Returns, you can carry forward the excess and use it to off-set any VAT due in the following tax period. If any excesses still remain, you may submit an application for a refund. 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 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 penalty, fine, interest or tax 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 must be kept for at least 5 years. Additionally, you must keep all VAT collected in an account separate and apart from all other funds collected by the business.

IMPORTS

Goods and services that are subject to VAT when acquired locally will also be subject to VAT if they are imported into 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 domestic VAT are 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 or such other period as may be approved by the Comptroller. See VAT Form No. 38 Application for Deferment of VAT, for further information.

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;
- freight and insurance; 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 Bahamians returning home

A Bahamian 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 Regulation 20 of the VAT Regulations.

Services

The following guidance 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 supplier is outside of The Bahamas but the recipient 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 and by the direct provider of transport service.

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, license, 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:

- declare the import to the Comptroller; and
- pay the VAT due on the imported service:
- where the recipient is not a taxable person, within 7 days of the import;
 - where the recipient is an unregistered taxable person, on the date stated on the notice of assessment;
 - where the recipient is a taxable person, within 21 days after the tax period in which the services were imported.

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

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 to show that the goods are leaving The Bahamas.

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 scheduled 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
 - financial and other services, provided to a person treated as non-resident for the purposes of the Exchange Control Regulations where the benefit or advantage is outside of The Bahamas.

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 Act 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 Act 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 (eg. companies, branches where the branch is a Port Licensee) to apply to be treated as a single taxable person for VAT purposes. The VAT registration is made in the name of the “representative member” under whose Tax Identification Number (TIN) the VAT return for the Group will be filed. 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 or other conditions as stipulated by the VAT Comptroller (See VAT Rule 2015-004 - Group Registration)

Registration as a group is not allowed where:

- a resident and a non-resident form part of the same grouping, except where the entities are related financial institutions both operating from inside the Bahamas; or

- a Port licensee and a person who is not a Port licensee form part of the same grouping, except where all input and output supplies receive the same VAT

treatment both inside and outside the Port Area VAT grouping is optional and at the discretion of the Comptroller. If you would like to apply for VAT grouping you should complete VAT Form 7c and provide the necessary supporting documents to the Comptroller for consideration.

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 cash flow 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 cash flow 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:

If the business is a taxable business, both the seller and the buyer have to be registered for VAT before the transaction takes place.

The business being transferred has to be a going concern, in that it is not dormant or a prospective business but one that is an income producing activity.

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.

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 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 Part II section 16 of the VAT Regulations and VAT Rule 2015-025 - Treatment of Going Concern.

Objections and Appeals

The VAT law empowers the Comptroller to make decisions on any matter pertaining to the taxpayer or their obligations to the VAT Department.

If aggrieved by an appealable decision of the Comptroller, you may lodge an objection with the Comptroller using the prescribed forms. 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.

You may find the following document useful to read for further explanation on specific issues:-

VAT Act 2014

VAT (Amendment) Act 2015

VAT Regulations

VAT Rules

VAT Guidance Notes (specific industry guidance notes)

CONTACT US

Further information be obtain from the Taxpayers Services help desk: 1-242-225-7280

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

Or you can write to:

Department of Inland Revenue

Central Revenue Administration

P.O. Box N 413

Nassau, N.P., Bahamas

<http://inlandrevenue.finance.gov.bs/value-added-tax/>