



# Tax Learnings

September 2021

## Recent cases of penalties imposed by the NBR

### *Sale of gold at zero-rate*

<b>Background</b>	Many businesses have been charging VAT at the zero-rate on sale of pure gold without holding a certificate issued by the Ministry of Industry Commerce and Tourism (MoICT) or an entity licensed by the MoICT.
<b>Penalty exposure</b>	BHD 50,000 to 70,000.
<b>Our comment</b>	<p>For the supply of gold, silver and platinum to be zero rated it needs to have a purity of at least 99% and be tradeable on global bullion markets. For an item to be considered to be at 99% purity it needs to be <u>certified by the Testing and Metrology Department</u>.</p> <p>Therefore, it is essential for Bahrain jewelers selling 'pure' gold, silver and platinum to hold the certification before applying VAT at the zero-rate.</p>

### *Display prices*

<b>Background</b>	Many businesses in the retail, hospitality and consumer goods sector have been displaying their prices exclusive of VAT. In certain cases, the customer has taken goods to the cash register where they are told that VAT will be added to the price and in other instances for example, in a restaurant, the menu may state that prices are subject to government levy, service charge and VAT.
<b>Penalty exposure</b>	Administrative fine of up to BHD 5,000.
<b>Our comment</b>	<p>The price displayed for goods and services in the local market must be <b>inclusive</b> of VAT and are deemed to be inclusive of VAT.</p> <p>For retail businesses this means that the price displayed on the tag, sticker or menu must be the final price inclusive of all other charges, levies and VAT that the customer has to pay. If not, the price will be deemed to be inclusive of VAT which means the business may lose out if they have not factored in the VAT in the displayed price. Also note that if the retail business is providing a discount or running a short term promotion the discount needs to be applied first and then VAT added on the discounted price.</p> <p>Example: a BHD 10 item in a restaurant (that is required to charge the 5% government levy and may also charge the optional 10% service tax) will need to be displayed as BHD 12.130 (BHD 10 + BHD 0.500 (government levy) + BHD 1.05 (10 % service tax) + BHD 0.580 (5% VAT)).</p>

## Did you know?

### Amendment of submitted VAT returns

As per Article 51 of the Bahrain VAT Executive Regulations, 'internal errors' leading to a misreported net VAT due or refundable of less than BHD 5,000 can be shown as a correction in the VAT return of the tax period following the original VAT period. On the other hand, a self-amended VAT return should be submitted if there is an internal error leading to a misreported value of net VAT equal to or greater than BHD 5,000.

Example:

*A manufacturer supplied goods to its wholesale customers in the first quarter of 2021 at 0% VAT. The value of goods supplied in the first quarter was BHD 200,000. Subsequently in October 2021 the business realises that VAT at 5% was supposed to be charged and accordingly cancels the old invoices and issues fresh invoices at 5% dated October 2021. The VAT due on such invoices is more than BHD 5,000.*

Considerations for the manufacturer:

- Would incorrect classification of a supply at 0% instead of 5% be viewed as an 'internal error'?
- If yes, will the business be required to amend the previously filed return given the amount of VAT involved is more than BHD 5,000?
- Can the business report the credit notes and new invoices at 5% in the fourth quarter 2021 VAT return without having to amend the first quarter 2021 VAT return?
- Will the NBR impose penalties on account of this misclassification or if the credit notes and new invoices are reported in the fourth quarter 2021 VAT return?

The NBR has clarified in the VAT Return Modifications Manual that an incorrect treatment of a supply where it was zero rated instead of standard rated is an internal error. Accordingly, where the VAT amount due on account of reclassification of a supply from 0% to 5% is equal to or greater than BHD 5,000, taxpayer must amend the previous incorrectly filed VAT return. The NBR is likely to impose penalties for late payment and late filing within the range of 5% to 25% of the underreported tax amount due.

*The above is for general information only and is not intended to address the circumstances of any particular scenario. Please seek professional advice in relation to your particular circumstances.*

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