



# Ministry Of Finance

## VAT Department

### VAT Guidance for Professional & Other Similar Type Services

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## Introduction

This guide is intended to provide businesses in the professional and international services industry with information on Value Added Tax (“VAT”). It should be read in conjunction with the Value Added Tax Act 2014 (“VAT Act”), the Value Added Tax Regulations 2014 (“VAT Regulations”), the VAT Rules and The Bahamas General VAT Guide (“VAT Guide”), all of which can be found on the website of the Government of The Bahamas (“Government”).

## What are professional and international services?

For the purposes of this guide, professional services include services provided by professionals and similar type services by a body corporate.

The term “professional services” encompasses a wide variety of services. Generally the provider of these services will have specific skills or knowledge. Below are some examples of the services that are considered “professional services”:

- Services of accountants and lawyers including bookkeeping services and services provided by barristers and solicitors
- Management and consulting services (including advisory services), company administration and trustee services
- Services of engineers, architects, surveyors, and draftsmen
- Services provided in respect of intellectual property (“IP”)
- Services relating to information technology (“IT”) including electronically supplied services such as the provision of websites, distance maintenance programs, software updates, downloaded services and the services of an IT engineer
- Data processing services
- The provision of information electronically or otherwise
- Advertising and marketing services
- Financial and insurance services

- Medical and educational services

For the purpose of this guide, “international services” is a term used for professional services that are supplied for the benefit of a person considered to be outside of The Bahamas or for whom in the case of the supply the Exchange Control Regulation would consider to be enjoying the benefit outside The Bahamas. These services are also regarded as export services.

### **Are professional services taxable supplies?**

Most professional services provided by a supplier in The Bahamas are taxable supplies except for certain supplies of financial, insurance, medical and educational services, which are exempt from VAT. Professional services are taxable at either the standard rate of VAT (7.5%) or the zero rate of VAT depending on where the services are being used or where the benefit or advantage is being obtained.

- If the benefit or advantage of professional services is obtained in The Bahamas the services will be subject to VAT at the standard rate.
- If the benefit or advantage of professional services is obtained outside of The Bahamas, the services will be subject to VAT at the zero rate. For VAT purposes the benefit or advantage of the professional services is also considered to be obtained outside The Bahamas when the service is a direct input to the making of zero-rated supplies by a person who although physically present inside The Bahamas is designated as a non-resident for exchange control purposes.

Remember that you do not need to charge VAT unless you are registered for VAT (see section “When will I be required to register for VAT?”).

## When are professional services taxable at the standard rate?

Professional services provided by a supplier in The Bahamas are subject to VAT at the standard rate if they are used or the benefit or advantage is being obtained in The Bahamas.

Normally a recipient of a service will use or obtain the benefit or advantage of a service where they reside. If using the exchange control designation specific to the supply, the recipient is resident in The Bahamas then the service will be subject to VAT at the standard rate (although there are some special rules relating to services provided in respect of property and events).

## Determining the Residency of a Person

For VAT purposes, an individual is considered to be resident in The Bahamas if they normally reside in The Bahamas or if they carry on a taxable or other activity, where the benefit or use of the supply is in The Bahamas. Under the Exchange Control Regulations non-residency status can be designated even when a taxable person is physically present in the Bahamas (for example some financial institutions). Once exchange control rules are invoked, the status of the majority of the directorship or majority of ownership will not be sufficient to pin down residency of a company.

A company, branch or other entity will be considered to be resident in The Bahamas if:

- it carries on a business or activity in The Bahamas and is allowed to earn revenues in Bahamian dollars or principally from activities undertaken in The Bahamas;
- it is not Bahamian owned or controlled, but is designated by Exchange Control Approval a resident.

A company or branch entity will be considered a non-resident in the following illustrative cases:

- it maintains an operational presence in The Bahamas (direct staffing and premises) but is designated as non-resident for exchange control purposes;
- it is Bahamian owned or controlled, domiciled in the Bahamas, but designated as a non-resident for exchange control purposes;
- it is domiciled in The Bahamas maintaining registered offices but not an operational presence in The Bahamas;
- it is not domiciled in The Bahamas


## Corporate Services

If you supply corporate services for an explicit fee, such as assistance with the formation of a company, the provision of directors and company secretaries or the provision of advice and assistance with meetings, these are all services subject to VAT at the standard rate unless provided to a non-resident of The Bahamas (being recognized as a non-resident under the Exchange Control Regulations). Your corporate services to companies considered non-resident will be treated as international services and subject to VAT at the zero rate.

## Foreign or overseas companies

Foreign or overseas companies are companies that are incorporated outside of The Bahamas but are registered in The Bahamas. If such companies provide goods or services in The Bahamas, there may be a requirement to register for VAT and declare VAT on the goods or services they provide. The normal rules regarding VAT registration will apply.

If you provide services to a foreign or overseas company you need to consider whether the goods or services are received and the benefit or advantage of your services is obtained in The Bahamas. If so, your service will be a domestically supplied service and take on the appropriate VAT liability. Otherwise, your services will be considered



exports and subject to the zero rate of VAT. If you charge the zero rate of VAT for your services, you should maintain confirmation that the services were not received in The Bahamas. Confirmation from the administrator of the company will suffice.

### **International Business Companies (“IBCs”)**


With the exception of when they obtain benefit inside The Bahamas supplies to IBCs should be zero-rated. These corporate vehicles are constructed to facilitate supplies of goods and services to non-residents. Most IBCs do not maintain a physical presence in The Bahamas, but are instead supported through regulated suppliers of corporate and financial services. In limited cases where IBCs maintain physical presence in The Bahamas, they will be required to register to claim VAT credit on some local inputs that are directly supplied to their zero-rated operations.

### **Exempted Limited Partnership (“ELP”)**

An ELP is restricted from transacting business with the general public in The Bahamas although it can undertake business with IBCs. If you supply services to an ELP, you need to consider whether the ELP is resident in The Bahamas or not, according to their exchange control designation. If the partnership maintains a physical presence, then it may also be necessary for it to register for VAT. Otherwise registration will not be required.

### **Supplies between branches**

Supplies between branches, where both branches are located in The Bahamas, are not supplies for VAT purposes. Supplies between branches where one branch is located in The Bahamas and one is outside The Bahamas are subject to VAT as if they were separate companies. To determine the VAT treatment you need to consider what is being supplied, the value and the VAT liability. Supplies of goods or services from a



branch in The Bahamas to a branch outside The Bahamas is likely to be subject to VAT at the zero rate of VAT as an export. Supplies between branches within The Bahamas to a Port licensee are taxable at the standard rate.

Where a branch of a business is located in The Bahamas while the other is outside, VAT should be charged between the branches. The value of supplies 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, in which case the value of the supply is considered to be the fair market value. In respect of supplies between branches there may be no consideration, therefore, the value will be deemed to be the fair market value of the goods or services supplied.

### **Supplies between companies in a corporate group**

Companies within a corporate group are considered separate entities for VAT purposes, therefore, transactions between companies in a corporate group can be subject to VAT. If this has a financial impact or has an impact on cash flow you can consider whether forming a VAT group would be an advantage (see section “VAT grouping”). It should be noted however, that companies that are resident outside of The Bahamas cannot be included in a VAT group with companies that are resident in The Bahamas. Further, except as provided in the VAT Rules, in the case of Freeport, a Port licensee and a person who is not a Port licensee may not form part of the same grouping.

### **What if services are supplied by an agent or intermediary?**

A supply by an agent for a principal is a supply by the principal and supply to an agent for a principal is a supply to the principal except where the services are supplied by the agent to the agent’s own principal or the principal is a non-resident. Typically, the agent may disclose by way of the contract to whom the supply is being made. If there is no contract, you need to consider the economic reality of the transaction.



**There are however exceptions to the above:**

### **Services relating to property in The Bahamas**

Professional services that relate to tangible personal property or real property such as land and buildings, located in The Bahamas, are subject to the standard rate of VAT. This is because the benefit of the services relating to property is considered to be obtained in The Bahamas when the property is located in The Bahamas.

Professional services that relate to tangible personal property or real property such as land and buildings that are located outside of The Bahamas are subject to the zero rate of VAT.

Services relating to property include services of a real estate agent, property manager or lawyer on the sale or purchase of a property. They also include professional services in respect of property maintenance or repair.


### **Cultural, artistic, sporting, educational, or similar activities**

Professional services relating to cultural, artistic, sporting, educational or similar activities are subject to the standard rate of VAT if the activity takes place in The Bahamas. If the activity takes place outside the Bahamas, it will be treated as zero rated.

Some examples would be:

- The charge for speaking or lecturing at an event in The Bahamas;
- the request to sing at a concert in The Bahamas;
- the services consist of organising a promotional event such as a film festival or concert in The Bahamas; or
- the payment for taking part in a race in The Bahamas.





If you import such services they will be subject to import VAT (see section “Imported professional services”).

### **Intellectual property**

The following services associated with intellectual property rights for use outside The Bahamas are subject to VAT at the zero rate:

- the filing, prosecution, grant, maintenance, transfer, assignment, licensing, or enforcement of any intellectual property rights for use outside The Bahamas;
- incidental services necessary for the supply of services referred to above; 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.

Any of the above services associated with intellectual property which are originated and are for use in the Bahamas will be subject to VAT at the standard rate.

### **Imported professional services**

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

Import VAT is due on a professional 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, such as certain financial or insurance services.

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 in The Bahamas.



There are some special rules for certain services as mentioned above.

- 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 tangible or real property the supply takes place where the property is located.

The following services are supplied where the customer uses or obtains benefit or advantage of the services irrespective of the above special 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(s) contracted to perform the services enter The Bahamas the importer must:

- submit an accounting for this in the VAT Return 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 a taxable person within 28 days after the tax period in which the services were imported.

If a business is registered for VAT, it can self-account for the importation of services on the VAT return rather than submitting an import declaration. You should self-account for the imported service on the VAT return for the period in which the importation takes place. To do this, you calculate the VAT amount of the imported service by multiplying the net amount by 7.5%. The VAT amount and the net amount of the imported service is then submitted on the VAT return in the appropriate boxes.

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

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

- receipt of payment;
- the date an invoice is raised; 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.

## LICENCES, SUBSCRIPTION AND MEMBERSHIP FEES PAID BY PROFESSIONALS

Most associations or bodies collect an annual licence and subscription/membership fee from their membership Licences and membership fees, where these meet statutory and professional requirements are not subject to VAT as no supply is provided.

### When would I be required to register for VAT?

You should consult The Bahamas General VAT Guide on timing and other requirements for registration.

## THE RECOVERY OF VAT ON PURCHASES

You should consult The Bahamas General VAT Guide on timing and other requirements for on filing and recovery of VAT on inputs.

### The Law

You may find the following references to the legislation useful.

VAT Act

Section 30 – Rules Relating to Supply of Services

First Schedule – Part II – Zero rated Supplies of Services – Item 9

### VAT Regulations

Regulation 19 – Cash Accounting for VAT Returns

## CONTACT US

Further information can be obtained from the Taxpayers Services help desk: 1 (242) 225 7280

Or you can contact us by email: [vatcustomerservice@bahamas.gov.bs](mailto:vatcustomerservice@bahamas.gov.bs)

Or you can write to:

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