



Tax Learnings



30 November 2021

Recent case of penalties imposed by the National Bureau for Revenue (NBR)

Non-registration of funds

Background	Certain investment funds in Bahrain which are licensed by the Central Bank of Bahrain (CBB) have been penalised by the NBR for not registering for VAT despite having taxable supplies exceeding BHD 37,500/- annually.
Penalty exposure	BHD 500/- to BHD 10,000/-
Our comment	<p>Investment funds in Bahrain carry out investment activities while being subject to the various regulations issued by the CBB which are applicable for license holders based on the license category.</p> <p>From a VAT perspective, an investment fund will be considered to be a separate person even if the fund does not have a commercial registration based on the definition of 'taxable person' provided under the VAT Law.</p> <p>An investment fund is considered to be making supplies of financial services when selling the pooled assets and other investments (e.g., selling stocks) or generating income from financing activities (e.g., interest income from debt securities).</p> <p>Whilst almost all income generated by the fund from investments made locally in Bahrain will be exempt from VAT, income of a similar nature received from investments made outside Bahrain will be zero-rated on the basis that such income will be seen as the consideration for export of financial services. In addition, the investment fund may be receiving services from non-resident suppliers where the fund is liable to account for VAT under the reverse-charge mechanism.</p> <p>If the sum of income received by the fund from investments outside Bahrain and value of services received from non-resident suppliers on an annual basis exceeds the mandatory registration threshold of BHD 37,500/-, the fund will become liable to apply for a VAT registration to the NBR.</p> <p>Even though such funds have the option to apply to the NBR for an exclusion from registration on the basis that the fund is only making zero-rated supplies, such funds are still required by the VAT Law to make an application for VAT registration to the NBR as per the prescribed timelines.</p>

Did you know?

Deduction of import VAT paid by clearing agent

Typically, VAT due on imports of goods is payable by the importer of record to Bahrain Customs Affairs at the point of import in accordance with the GCC Common Customs Law the VAT on imports is collected by Bahrain Customs Affairs through the same procedure as payment of customs duties and excise tax. Subject to meeting the relevant conditions, the importer of record who is registered for VAT in Bahrain will be eligible to deduct the import VAT paid on importation as input tax.

However, there may be circumstances where an entity who does not possess an import license may appoint an agent who possesses the import license to import goods on behalf of the principal entity. The agent may be a third party customs clearing agent or a group entity who possess the relevant import license.

As per Article 57(B) of the Bahrain VAT Executive Regulations, in order to deduct VAT paid on imports as input tax, the taxable person shall retain customs documents relating to imports which prove that the said taxable person is, in fact, the importer of the goods in accordance with the customs law.

The NBR has clarified that a taxable person using the import license and VAT account number of another taxable person to import goods is not entitled to claim the VAT paid on this import on the basis that the import is not made using the correct VAT account number. Similarly, the person whose VAT account number has been used for the import (agent) will not be entitled to claim the VAT paid at import, given that this import is not made for the purpose of the agent's economic activity.

Therefore, it is critical for businesses in Bahrain who are importing goods to assess the contractual obligations as well as the customs documentation before recovering the VAT paid on import as input tax. Incorrect input tax claims may lead to additional VAT liability and imposition of penalties at the time of audit/reassessment by the NBR.

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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