



# Tax Learnings

23 January 2022

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

### Fair market value

<b>Background</b>	Several businesses have been penalised for not accounting for VAT based on the fair market value of supplies made to related persons.
<b>Penalty exposure</b>	BHD 1,250/- to BHD 2,500/-
<b>Our comment</b>	<p>Typically, the value of supply is the VAT exclusive consideration received by the supplier from the customer, whether in cash or in kind or both. However, due to the application of specific provisions in the VAT Law, value of supplies between related persons must be based on the fair market value if:</p> <ul style="list-style-type: none"> <li>- The transaction value is less than the fair market value of the supplies; and</li> <li>- The customer is not eligible to claim the input VAT on such supplies in full.</li> </ul> <p>The related party valuation provisions are designed to mitigate the risk of undervaluation and consequently lower VAT liability being discharged in cases where the relationship between the supplier and the customer is likely to influence the transaction value.</p> <p>For example, if a bank receives IT services from its 100% owned subsidiary, VAT due on this supply must be accounted by the subsidiary on the fair market value of such services as the bank is unlikely to be eligible to claim the input VAT in full.</p> <p>The fair market value is the fair price tradeable in the market between two independent parties under similar circumstances at the same date as the date of the supply. The NBR has the right to request evidence to demonstrate that the VAT has been calculated based on the fair market value of the goods or services. Further, note that the definition of related persons as per the VAT Law is broad and includes the following:</p> <ul style="list-style-type: none"> <li>- Where one entity has the authority to direct and supervise the other.</li> <li>- Where one entity holds an administrative authority enabling it to influence the work of the other from a financial, economic or organizational point of view.</li> <li>- Two entities under the authority of a third entity, who may influence their work from a financial, economic or organizational point of view.</li> </ul>

## Did you know?

### **Single composite supply vs multiple supplies**

Where a supply consists of more than one component, it is essential for businesses to assess the applicable rate of VAT on the value of this supply.

In order to assess this, the supplier must first identify whether the supply qualifies to be a single composite supply or multiple supplies.

Following circumstances are indicative of a single composite supply:

- Supply includes a principal component and other component(s) which are necessary or essential for supplying the principal component.
- Supply includes a principal component and other component(s) or other components that are not considered as an aim in themselves, but only a means of improving access to the principal component.
- Supply includes components which are closely linked and form a single supply, which would be impossible or unnatural to split.

In such cases, a single composite supply occurs if all the components are supplied by a single supplier and/or the price of each component is not determined separately. The VAT treatment applicable to the principal component applies to the entire supply in these cases.

However, in cases where a supply containing multiple components does not qualify to be a single composite supply, the VAT treatment must be assigned individually to each component. Even where a single charge is made, the consideration will have to be split between different components. Where the charge cannot be split into different components, the highest rate of VAT will apply on all the components.

*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.*

**Mubeen Khadir**

Partner

T: +973 3222 6811

E: [mubeenkhadir@kpmg.Com](mailto:mubeenkhadir@kpmg.Com)

**Omar Hisham**

Senior Manager

T: +973 3840 7759

E: [sosaid@kpmg.com](mailto:sosaid@kpmg.com)

**Hasan Khalaf**

Manager

T: +973 3636 6462

E: [hakhalaf@kpmg.com](mailto:hakhalaf@kpmg.com)

**Mansoor AlWadaie**

Manager

T: +973 3998 8098

E: [malwadaie@kpmg.com](mailto:malwadaie@kpmg.com)

**Shashank Chandak**

Manager

T: +973 3553 1905

E: [shashankchandak@kpmg.Com](mailto:shashankchandak@kpmg.Com)

**DaoHan Hung**

Manager

T: +973 3907 7964

E: [hdaohan@kpmg.com](mailto:hdaohan@kpmg.com)

---

[home.kpmg/bh](http://home.kpmg/bh)

© 2022 KPMG Fakhro, a Bahrain partnership registered with the Ministry of Industry, Commerce and Tourism (MOICT), Kingdom of Bahrain and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International. KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Throughout this release, "we", "KPMG", "us" and "our" refers to the global organization or to one or more of the member firms of KPMG International Limited ("KPMG International"), each of which is a separate legal entity.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.