

# Bahrain: NBR publishes two new VAT Guides

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## In brief

### The NBR publishes two new VAT Guides

The National Bureau for Revenue (NBR) in Bahrain has published a VAT Economic Activity Guide and a VAT Transfer of a Going Concern Guide on its website.

## In detail

The two new Guides published on the NBR website will provide taxpayers with additional guidance on what activities will be classified as economic activities for the purposes of VAT as well as what will be classified as Transfer of a Going Concern (TOGC) and the VAT implications that will apply.

### VAT Economic Activity Guide

Among other conditions, in order for a person to register for VAT in Bahrain, he must undertake an economic activity. The VAT Economic Activity Guide sets out guidance on what will be classified as an economic activity for VAT purposes. It sets out some indicators to help determine when an economic activity may exist.

The Guide confirms that an economic activity can still exist where the person carrying out the activity does not have the required legal or regulatory permissions or licenses. This means that persons who may be operating without a Commercial Registration will still be required to register for VAT where the conditions for VAT registration are met.

The Guide confirms that an economic activity may exist before any income is generated from the relevant activities. This means that a person conducting the activity may be able to register for VAT and recover input tax on expenses during the startup phase of the activity. Furthermore, the Guide clarifies that input tax should be available for decommissioning expenses incurred as part of shutting a business down.

The Guide confirms that passive holding companies do not conduct an economic activity. It sets out the circumstances in which activities of active holding companies, dormant companies and joint ventures will be considered as conducting an economic activity. It also confirms that any government bodies and public sector entities acting in a sovereign capacity are not considered to be carrying out an economic activity.

The Guide will be particularly helpful for those who have not yet registered to determine whether they are undertaking an economic activity and if there is a requirement for them to register for VAT in Bahrain

### VAT Transfer of a Going Concern Guide

This Guide sets out guidance on the key VAT issues to consider when a person (Transferor) transfers his economic activity to another person (Transferee). Such a transfer is usually called the transfer of a going concern or TOGC. Where the transfer of a business meets the conditions to be a TOGC, the transaction will be outside the scope of VAT. This can result in cash flow savings for both the Transferor and Transferee.

## Conditions to be satisfied for a transfer to qualify as a TOGC

A number of conditions must be satisfied so that a transfer qualifies as a TOGC:

1. The transfer must include all or part of a business capable of being operated on an independent basis.
2. The Transferor must be VAT registered.
3. The Transferee must be VAT registered or become liable to be registered as a result of the TOGC.
4. The Transferee must immediately use the assets acquired to conduct the same or a similar economic activity. The Guide provides further details on this requirement and states that closing a business as part of the normal business cycle or for refurbishment may not impact this condition from being met.
5. Both the Transferor and the Transferee must independently notify the NBR of the transaction within 30 days of the sale / transfer. Notification should be on forms which can be obtained from the NBR.

## Other considerations relating to TOGCs

The Guide further provides details on a number of issues to consider relating to these transfers such as:

- A transfer of assets over a period of time will not qualify as a TOGC
- Assets not used to continue the business
- Where there are successive transfers of a business, there will be no TOGC
- Transfer of exempt assets (real estate, shares)
- Business records
- De-registration following a transfer

The Guide also deals with transactions occurring after a qualifying TOGC. It provides guidance on how returned goods, discounts and rebates should be dealt with in addition to the position for bad debts and goods under warranty. Generally, where there is no loss of revenue, adjustment documentation (credit notes and debit notes) can be issued by the Transferee. Furthermore, where, following a TOGC, a Transferee replaces goods originally sold by a Transferor under warranty prior to the TOGC, the Transferee can claim input tax for the goods on a concessional basis.

The Guide also specifies the business records that should be kept by both parties to a TOGC.

The Guide also gives details on the recovery of input tax incurred in relation to a TOGC, how the TOGC applies within VAT Groups and the treatment of capital assets under a TOGC.

## Link to the NBR website

A link to the two Guides can be found below:

[https://www.nbr.gov.bh/vat\\_guideline](https://www.nbr.gov.bh/vat_guideline)

## The takeaway

The VAT Economic Activity Guide will be relevant to all those in Bahrain undertaking any form of activity, even where this is not under a Commercial Registration. This will be particularly helpful for those assessing whether or not they are required to register for VAT.

Furthermore, the VAT Transfer of a Going Concern Guide provides additional guidance on which transactions the NBR considers as a TOGC. VAT registered business in Bahrain who may have transactions falling under the TOGC provisions should review this Guide and ensure that it is compliant with the VAT treatment and compliance obligations that will apply.



## Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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