

The Value Added Tax and Supplementary Duty Act, 2012

[Act No. 47 of 2012]

(Unofficial English Translation)

An Act to expand the areas of imposing value added tax, supplementary duty and turnover tax; and to consolidate and simplify the provisions relating to collection procedures thereof; and to make other provisions ancillary thereto.

WHEREAS it is expedient and necessary to expand the areas of imposing value added tax, supplementary duty and turnover tax; and to consolidate and simplify the provisions relating to collection procedures thereof; and to make other provisions ancillary thereto;

It is hereby enacted as follows:—

CHAPTER ONE PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Value Added Tax and Supplementary Duty Act, 2012.

(2) The Chapter Two, Chapter Twelve and Chapter Fifteen, and sections 128, 132, 134, and 135 of this Act shall come into force at once.

(3) Save and except the Chapters and Sections mentioned in subsection (2), the other Chapters and Sections of this Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (1) "**non-resident**" means a person who is not a resident;
- (2) "**offence**" means any offence specified in sections 111, 112 and 113;
- (3) "**exempted supply**" means any supply specified in section 26;
- (4) "**exempted import**" means any import specified in section 26;
- (5) "**money**" means any existing legal tender of Bangladesh or of any other country, and also includes the following instruments, namely—

The Value Added Tax and Supplementary Duty Act, 2012

- (a) negotiable instrument;
 - (b) bill of exchange, promissory note, bank draft, postal order, money order or any other similar instrument;
 - (c) credit card or debit card; or
 - (d) any supply made through account credit or debit;
- (6) "**economic activity**" means any activity carried on regularly or continuously for making supply of any goods, services or immovable property, and
- (a) also includes the following activities, namely—
 - (i) any business, profession, vocation, means of earning livelihood, manufacture or undertaking of any kind, whether or not for profit;
 - (ii) Supply of any goods, service or property made under any lease, license, or a similar arrangement,
 - (iii) any one-off initiative in the nature of a commercial activity or enterprise; or
 - (iv) any activity carried out at the beginning or at the end of such an activity; but
 - (b) shall not include the following activities, namely-
 - (i) any service rendered by an employee to his employer;
 - (ii) any service rendered by any director of a company:
Provided that the services rendered by a director, who holds the office of the directorship for the purposes of the business of the company, shall be regarded as an economic activity;
 - (iii) any recreational pursuit or hobby carried on a non-commercial basis; or
 - (iv) any prescribed activity carried on by the Government without any commercial motive;
- (7) "**partnership**" means the partnership as defined in section 4 of the Partnership Act, 1932 (Act No. IX of 1932);
- (8) "**advance tax**" means any tax payable in advance under section 31(2) on a taxable import;
- (9) "**order**" means any order, general or special, issued by the Board or by any authorized VAT official;
- (10) "**progressive or periodic supply**" means—
- (a) any supply for which the consideration is paid progressively or periodically under the terms of an agreement;

The Value Added Tax and Supplementary Duty Act, 2012

- (b) any supply made under the terms of any lease (including finance lease), hire of license; or
 - (c) any supply made directly for any construction or engineering activity or for restructuring or extension of any building;
- (11) "**ancillary transport services**" means any stevedoring services, lashing and securing services, cargo inspection services, services relating to preparation and processing of customs documentation, container handling services, and services relating to the storage and safe-keeping of transported goods or goods to be transported and any other similar service;
- (12) "**international transport**" means, except the ancillary transport services, any of the following services of transportation of any passenger or goods by road, water or air from one place to another, namely–
 - (a) from a place outside Bangladesh to another place outside Bangladesh;
 - (b) from a place outside Bangladesh to a place within Bangladesh; or
 - (c) from a place within Bangladesh to a place outside Bangladesh;
- (13) "**international assistance and loan agreement**" means an agreement between the Government of Bangladesh and a foreign Government, or an international organization for rendering assistance to Bangladesh in the areas of finance, technology or administration;
- (14) "**appellate tribunal**" means the Customs, Excise, and Value Added Tax Appellate Tribunal constituted under section 196 of the Customs Act;
- (15) "**resident**" means an individual who–
 - (a) normally lives in Bangladesh; or
 - (b) stays in Bangladesh for more than 182 (one hundred and eighty-two) days in a current calendar year; or
 - (c) stays in Bangladesh for more than 90 (ninety) days in a calendar year and stayed in Bangladesh for more than 365 (three hundred and sixty-five) days during the four immediately preceding calendar years; and also includes the following entity, namely–

The Value Added Tax and Supplementary Duty Act, 2012

- (i) a company, if it is incorporated under the prevalent laws of Bangladesh or its centre of control and management is in Bangladesh;
 - (ii) a Trust , if a Trustee thereof is a resident of Bangladesh or the centre of control and management of the Trust is in Bangladesh;
 - (iii) an association of persons other than a Trust , if it is formed in Bangladesh or its centre of control and management is in Bangladesh;
 - (iv) all government entities; or
 - (v) a property development joint venture;
- (16) "**import**" means bringing in any goods from outside to within the geographical boundary of Bangladesh;
- (17) "**imported service**" means supply of any service made from outside Bangladesh to a person registered or required to be registered;
- (18) "**electronic service**" means the following services, when provided or delivered on or through a telecommunications network, a local or global information network, or similar means, namely–
- (a) websites, web-hosting, or remote maintenance of programmes and equipment;
 - (b) software and the updating thereof delivered remotely;
 - (c) images, texts, and information delivered;
 - (d) access to databases;
 - (e) self-education packages;
 - (f) music, films, and games; and
 - (g) political, cultural, artistic, sporting, scientific and entertainment broadcasts and telecasts and events, including telecasts;
- (19) "**input tax**" means the value added tax imposed on any taxable supply of any goods, services or immovable property including the value added tax payable by any person on the taxable supply of imported goods or services;
- (20) "**output tax**" means the value added tax payable by any registered person for the following activities, namely–
- (a) supply of any taxable goods, service or property by such person; or
 - (b) import of any taxable service by such person;
- (21) "**withholding entity**" means–

The Value Added Tax and Supplementary Duty Act, 2012

- (a) a government entity;
 - (b) a non-government organization approved by the NGO Affairs Bureau or the Directorate-General of Social Welfare;
 - (c) a bank, insurance company or a similar financial institution;
 - (d) a post-secondary educational institution;
 - (e) a public limited company; or
 - (f) an establishment registered under a large taxpayers' unit (VAT);
- (22) "**withholding certificate**" means a certificate in respect of an amount of tax withheld at source;
- (23) "**Commissioner**" means, when the word is used singly, an officer appointed to the position of Commissioner under section 78 of this Act;
- (24) "**tax**" means VAT, turnover tax, supplementary duty, and shall, in relation to realization of arrears, also include any interest, monetary penalty or fine;
- (25) "**tax invoice**" means a document issued by any supplier under section 51;
- (26) "**taxpayer**" means a person who pays tax under this Act, and it also includes a withholding entity;
- (27) "**tax assessment**" means an assessment of net payable tax by any taxpayer under chapter fifteen;
- (28) "**tax determination**" means a determination of net payable tax by any Commissioner under chapter eleven;
- (29) "**tax fraction**" means the amount of money arrived at in accordance with the following formula:
- $$\frac{R}{100 + R}$$
- where R is the VAT rate specified in section 15(3);
- (30) "**tax period**" means-
- (a) in relation to VAT and supplementary duty, one month of the Christian Calendar; or
 - (b) in relation to turnover tax, every three-month-period ending on 31 March, 30 June, 30 September or 31 December;
- (31) "**taxable import**" means any import, other than an exempt import;

The Value Added Tax and Supplementary Duty Act, 2012

- (32) "**taxable supply**" means a supply other than an exempted supply, which is made—
- (a) in Bangladesh—
 - (i) by any person registered or required to be registered; and
 - (ii) through the process of economic activities;
- (33) "**tax rate**" means, depending on the context,—
- (a) VAT rate specified in section 15(3);
 - (b) supplementary duty rate specified in section 55(4); or
 - (c) turnover tax rate specified in section 63(1);
- (34) "**tax benefit**" means any one of the following benefits, namely—
- (a) a reduction in the output tax liability;
 - (b) a reduction in the VAT liability on an import of goods;
 - (c) an increase in an excess money carried forward or a reduction in the payable tax amount;
 - (d) an increase in the entitlement to a decreasing adjustment;
 - (e) a decrease in an increasing adjustment;
 - (f) a refund of tax;
 - (g) deferment of an output tax or acceleration of an input tax credit entitlement;
 - (h) a delay in accounting for output tax or an increasing adjustment or an acceleration of entitlement to an input tax credit or other decreasing adjustments;
 - (i) conversion of an original and actual taxable supply or import into a non-taxable supply or import;
 - (j) creating a right to an input tax credit in relation to an original and actual import or acquisition which would not otherwise be allowed; or
 - (k) showing a less-than-actual turnover by a taxpayer;
- (35) "**proceeding**" means any proceeding or process initiated by a Commissioner under this Act, but does not include any judicial proceeding in respect of any offence;
- (36) "**lay-by agreement**" means an agreement in respect of a sale or purchase, under which—
- (a) after the payment of the money for first installment, the price is paid by at least one more installment;
 - (b) possession of the goods is conferred after payment of the money of the last installment is made; and

The Value Added Tax and Supplementary Duty Act, 2012

- (c) ownership of the goods is transferred on conferment of possession;
- (37) "**central unit**" means a unit or place where all the accounts and records of an economic activity are centrally conducted and maintained;
- (38) "**company**" means an entity incorporated as a company under any law;
- (39) "**credit note**" means a document issued by a taxpayer in support of a decreasing adjustment;
- (40) "**invoice**" means a document showing the liability of the payment of any consideration;
- (41) "**penalty**" means a monetary penalty imposed by a Commissioner under section 85, but does not include a fine imposed by a court of Law on the trial of an offence;
- (42) "**turnover**" means, in relation to a person, all the money received or receivable by such person within a prescribed time or tax period against the supply of taxable goods or the rendering of taxable services manufactured, imported or purchased by means of his economic activities;
- (43) "**turnover tax**" means the tax imposed under section 63;
- (44) "**debit note**" means a document issued by a taxpayer in support of an increasing adjustment;
- (45) "**schedule**" means any schedule to this Act;
- (46) "**enlisted**" means an enlistment made for turnover tax under section 10(2);
- (47) "**person required to be enlisted**" means any person required to be enlisted for turnover tax under section 10(1);
- (48) "**enlistment threshold**" means the limit of Taka 30 lakh as turnover of an economic activity of any person in a 12 (twelve)- month- period, but does not include the following, namely–
- (a) the value of an exempted supply;
 - (b) the value of sale of a capital asset;
 - (c) the value of a sale of an organization of economic activities or any portion thereof; or
 - (d) the value of a supply made as a consequence of permanently closing down an economic activity;
- (49) "**document**" would mean to include the following things, namely–

The Value Added Tax and Supplementary Duty Act, 2012

- (a) anything expressed or stated with the help of letters, numbers, symbols or signs on paper or any other like material; and
 - (b) any electronic data, computer programme, computer tape, computer disk, or any other similar device that can hold data;
- (50) "**return**" means a return filed by a taxpayer in a tax period for tax assessment and tax determination;
- (51) "**Code of Civil Procedure**" means the Code of Civil Procedure, 1908 (Act No. V of 1908);
- (52) "**fixed place**" means any of the following places at or through which economic activities inside or outside Bangladesh are carried on, namely–
- (a) a place of management;
 - (b) a branch, an office, a factory, or a workshop;
 - (c) a mine, a gas well, a quarry for extraction of stones or any other similar mineral resource; or
 - (d) a location of any construction or installation project;
- (53) "**prescribed**" means prescribed by any rule or order issued by the Board;
- (54) "**registration**" means the VAT registration under section 6;
- (55) "**person required to be registered**" means any person required to be registered for VAT under section 4;
- (56) "**registered person**" means any person registered for VAT under section 6;
- (57) "**registration threshold**" means the limit of Taka 80 (eighty) lakh as turnover of an economic activity of any person in a 12 (twelve)-month period, but does not include the following, namely–
- (a) the value of an exempted supply;
 - (b) the value of sale of a capital asset;
 - (c) the value of a sale of an organization of economic activities or any portion thereof;
 - (d) the value of a supply made as a consequence of permanently closing down an economic activity;
- (58) "**fair market price**" means–
- (a) the consideration for a supply arrived at on the basis of a normal relation between a buyer and a seller, who are not associated with each other;

The Value Added Tax and Supplementary Duty Act, 2012

- (b) if it is not possible to arrive at a fair market price as prescribed in clause (a) above, it would then be the consideration of a similar supply made previously under similar circumstances;
 - (c) if it is not possible to arrive at a fair market price by the above means, it may be determined by the Board on the basis of an impersonal average of considerations arrived at in the course of normal business relations among buyers and sellers, who are not associated with one another;
- (59) "**consideration**" means the money paid or payable, whether directly or indirectly, in consequence of, or as an inducement to, a supply, or the fair market price of a thing paid or payable in lieu of cash,—
and also includes the money realized or realizable on the following accounts, namely—
- (a) any tax imposed under this or any other Act that is—
 - (i) payable by the supplier on, or by reason of, a supply; and
 - (ii) included in, or added to, the price charged to the recipient ;
 - (b) any money realized as service charge; or
 - (c) any money payable in relation to a loan agreement under finance lease or hire purchase and included in the consideration for supply of goods under hire purchase or finance lease;
- but does not include any discount in price given at the time of a supply;
- (60) "**goods**" means, other than share or stock or security or money, all kinds of tangible movable property;
- (61) "**Supply of goods**" means—
- (a) the transfer of the right, as an owner, to sell, exchange, or otherwise dispose of a goods, including a sale under hire purchase agreement; or
 - (b) giving the right to use the goods on lease, rent or otherwise, and it also includes the supply of goods under finance lease;
- (62) "**deemed export**" would mean to include one or more of the following supplies, namely—

The Value Added Tax and Supplementary Duty Act, 2012

- (a) supply of any ingredient of goods or service in a prescribed manner against foreign exchange and destined for consumption outside Bangladesh;
 - (b) supply of any goods or service within the territory of Bangladesh against foreign exchange through an international tender; or
 - (c) supply of any goods or service within the territory of Bangladesh against foreign exchange under cover of a local letter of credit;
- (63) **"representative"** means–
- (a) for a mentally or physically challenged individual, a guardian or a manager appointed by him;
 - (b) for a company other than a company in liquidation, the chief executive officer of the company;
 - (c) for a partnership, a partner thereof;
 - (d) for a Trust, any Trustee of the Trust or an executor or administrator of such Trust;
 - (e) for an association of persons, its chairman, secretary or the treasurer;
 - (f) for a government entity, the chief executive officer of the entity;
 - (g) for a foreign government, an officer appointed by such foreign government;
 - (h) for a non-resident, any VAT Agent appointed by him; or
 - (i) any other prescribed representative;
- (64) **"net payable tax"** means the actual payable VAT, supplementary duty or turnover tax in a particular tax period after assessment of the total output tax under section 45 and making adjustment therewith of increasing adjustments, decreasing adjustments and rebate of input tax in that tax period;
- (65) **"manufacturing"** means–
- (a) transforming or reshaping of any substance by processing individually or in combination with any other substance, material or components of production for changing, transforming or reshaping it into a different specific substance or goods so that it becomes useable differently or specifically;
 - (b) any incidental or related processes required to complete the production of goods;

The Value Added Tax and Supplementary Duty Act, 2012

- (c) any printing, publication, lithography or engraving processes;
- (d) any assembling, mixing, cutting, liquefaction, bottling, packaging or repackaging; or
- (e) all processes adopted for production or manufacture of goods, including intermediary or an incomplete process;
- (66) "**finance lease**" means any lease other than a hire purchase that is treated as finance lease under International Financial Reporting Standards;
- (67) "**Code of Criminal Procedure**" means the Code of Criminal Procedure, 1898 (Act No. V of 1898);
- (68) "**arrear tax**" means the arrear tax specified in section 95;
- (69) "**rule**" means any rule made by the Board;
- (70) "**Bill of Entry**" means the bill of entry as defined in section 2(c) of the Customs Act;
- (71) "**increasing adjustment**" means any of the following adjustments, namely—
 - (a) an increasing adjustment in respect of withholding tax;
 - (b) an increasing adjustment required for an annual re-calculation;
 - (c) an increasing adjustment if a payment is not made through banking channels;
 - (d) an increasing adjustment for goods put to a private use;
 - (e) an increasing adjustment on being registered;
 - (f) an increasing adjustment on cancellation of registration;
 - (g) an increasing adjustment for a change in the VAT rate;
 - (h) an increasing adjustment for the payment of any interest, monetary penalty, fine, fee, etc; or
 - (i) any other prescribed increasing adjustment;
- (72) "**large taxpayers' unit**" means any unit formed under section 78(3);
- (73) "**Board**" means the National Board of Revenue established by the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972);
- (74) "**person**" means any natural person, and also includes the following entities, namely—
 - (a) a company;
 - (b) an association of persons;
 - (c) a government entity;

The Value Added Tax and Supplementary Duty Act, 2012

- (d) a foreign government or a department designated, or any official appointed, by it;
 - (e) an inter-state or international organisation; or
 - (f) a joint venture for property development or any other similar initiative;
- (75) "**association of persons**" means any partnership, Trust or any similar association of persons, but does not include any company or unincorporated joint venture;
- (76) "**business identification number**" means a unique business identification number mentioned in the VAT registration certificate or turnover tax certificate issued to a registered or enlisted person;
- (77) "**services directly related to land**" mean–
- (a) services rendered directly on land;
 - (b) services of experts and estate agents rendered to specific pieces or areas of land; and
 - (c) services relating to construction work undertaken, or to be undertaken, on specific piece or pieces of land;
- (78) "**value**" means–
- (a) the value of import specified in section 28; or
 - (b) the value of supply specified in section 32;
- (79) "**value added tax**" or "**VAT**" means the value added tax imposed under section 15;
- (80) "**Value Added Tax Authority**" means the authority specified in section 78;
- (81) "**Value Added Tax Officer**" or "VAT officer" means any officer specified in section 78(1);
- (82) "**export**" means a supply of any goods from inside to outside the geographical limits of Bangladesh, and also includes a deemed export;
- (83) "**branch unit**" means a unit of an economic activity where accounts and records of such branch are maintained and kept separately and independently;
- (84) "**The Customs Act**" means The Customs Act, 1969 (Act No. IV of 1969) or any rule made or order issued there under;
- (85) "**Commissioner of Customs**" or "**Customs Officer**" means an officer appointed under the Customs Act;
- (86) "**zero-rated supply**" means any supply specified as zero-rated in section 21;

The Value Added Tax and Supplementary Duty Act, 2012

- (87) "**adjustment event**" means any of the following events, namely–
- (a) cancellation of any supply;
 - (b) alteration of the consideration for any supply;
 - (c) return of any supplied goods, in part or in full, to the supplier;
 - (d) conversion of a supply into a zero-rated or an exempted one as a result of an alteration in the nature of such supply; or
 - (e) any other prescribed event;
- (88) "**joint venture for property development**" means an agreement under which a land owner commits himself to a builder under certain terms and conditions for constructing a building or buildings on his land;
- (89) "**supplementary duty**" means the supplementary duty imposed under section 55;
- (90) "**goods subject to supplementary duty**" means any goods specified in the second schedule;
- (91) "**services subject to supplementary duty**" means any service specified in the second schedule;
- (92) "**integrated tax invoice and withholding certificate**" means a document specified in section 53;
- (93) "**government entity**" means–
- (a) a government or any of its ministries, divisions, or attached departments;
 - (b) a semi-government entity or an autonomous body;
 - (c) a state-owned enterprise; or
 - (d) a local authority, council, or a similar organisation;
- (94) "**supply**" means any supply, and it also includes the following namely–
- (a) a supply of goods;
 - (b) a supply of immoveable property;
 - (c) a supply of services; or
 - (d) a combination of the supplies of the above clauses (a) (b) and (c);
- (95) "**certificate**" means any certificate issued by the Commissioner under this Act;
- (96) "**time of supply**" means–

The Value Added Tax and Supplementary Duty Act, 2012

- (a) in relation to supply of goods, the time when the possession of the goods are conferred or they are removed;
 - (b) in relation to supply of services, the time when the services are rendered, generated, transferred or assigned; or
 - (c) in relation to supply of any immovable property, the time when the property is delivered or created or transferred or assigned;
- (97) "**associate**" means such a relation between two persons as would make one act or reasonably expected to act in accordance with the intention of the other, or make both act or reasonably expected to act in accordance with the intention of a third person, and it also includes the following persons, namely–
- (a) a relative of any of those persons;
 - (b) a partner of a partnership;
 - (c) a shareholder of a company;
 - (d) a Trust and a beneficiary of such Trust; or
 - (e) a joint venture for property development and the landowner as a partner of that joint venture, builder, or other related person;
- but does not include the following related persons, namely–
- (a) persons with employment relations; or
 - (b) representative, VAT Agent, distributor, licensee or persons with similar relationship;
- (98) "**second-hand goods**" means such a goods as has been used before, but does not include any precious metals or any goods made out of such precious metal (such as: gold, silver, platinum or any other similar metal), and diamond, ruby , emerald or sapphire;
- (99) "**service**" means any service but does not include any goods, immovable property and money;
- (100) "**supply of service**" means such a supply as is not a supply of goods, money, or immoveable property, which, without prejudice to the generality, shall include the following, namely–
- (a) a grant, assignment, termination, or conferment of a right;

The Value Added Tax and Supplementary Duty Act, 2012

- (b) making a facility, an opportunity, or an advantage available;
 - (c) an agreement to perform an act, to refrain from performing an act or accepting a situation or to tolerate an act or a situation; and
 - (d) the issuance, transfer or conferment of a license, permit, certificate, concession, authorization, or a similar right;
- (101) "**immovable property**" means the subject-matter of a supply of any immovable property whether the subject-matter is a property or a combination of the rights attached to it, and it shall also include land or any building situated on that land or any structure constructed on or attached to it;
- (102) "**supply of immovable property**" means to include the following supplies–
- (a) an interest in, or right over, land;
 - (b) a personal right consisting of an invitation to confer a right or interest on land;
 - (c) issuance of a license to occupy land including supply of residential accommodation or a contractual right exercisable over, or in relation to, land;
 - (d) a right to acquire anything mentioned in clauses (a) (b) and (c) or the option to exercise that right in future;
- (103) "**decreasing adjustment**" means any of the following adjustments, namely–
- (a) a decreasing adjustment for the money paid as advance tax;
 - (b) a decreasing adjustment allowed to a supplier of telecommunications goods or services;
 - (c) a decreasing adjustment in respect of withholding taxes;
 - (d) a decreasing adjustment applicable as a result of an annual re-calculation;
 - (e) a decreasing adjustment on being registered;
 - (f) a decreasing adjustment in relation to second-hand goods purchased for re-sale;
 - (g) a decreasing adjustment in relation to an indemnity payment under a policy of insurance;
 - (h) a decreasing adjustment in relation to a monetary prize paid for a lottery, lucky draw, raffle, or similar undertaking;

The Value Added Tax and Supplementary Duty Act, 2012

- (i) a decreasing adjustment where there is a decrease in the VAT rate;
- (j) a decreasing adjustment allowed to refund of supplementary duty;
- (k) a decreasing adjustment claimed for a negative net amount carried forward from a previous tax period;
- (l) a decreasing adjustment allowed for VAT overpaid in a previous tax period; or
- (m) any other prescribed decreasing adjustment.

3. The Act to prevail.—Notwithstanding anything contained in any other law or rule or regulation for the time being in force or in any other instrument having the force of law, the provisions of this Act shall prevail.

CHAPTER TWO VAT REGISTRATION AND TURNOVER TAX ENLISHMENT

4. Persons required to be registered for VAT.—(1) Irrespective of any central, or branch unit, each of the following persons shall, from the first day of a month, be required to be registered for VAT, namely—

- (a) a person whose turnover exceeds the registration threshold within a 12 (twelve)-month period closing at the end of the month preceding that month; or
- (b) a person whose estimated turnover exceeds the registration threshold within the succeeding 12 (twelve)-month period beginning at the start of the start of the preceding month.

(2) Notwithstanding anything contained in sub-section (1), every person carrying on the following economic activities of—

Has to be registered for VAT, if he—

- (a) manufactures any goods subject to supplementary duty in Bangladesh; or
- (b) supplies any service subject to supplementary in Bangladesh;

5. Registration of central, or branch unit.—(1) Every person required to be registered for his economic activities shall have only one VAT registration for the central, and all the branch units.

(2) Notwithstanding anything contained in sub-section (1), a branch unit that maintains the records, and keeps the accounts, independently and separately from the central unit, may have a separate VAT registration.

The Value Added Tax and Supplementary Duty Act, 2012

(3) Every branch unit registered separately shall, for the purposes of this Act, be regarded as a separate taxpayer.

(4) Movement of goods or exchange of services from one branch unit to another separately registered branch unit of the same economic activity shall not be treated as supplies and, consequently, there shall arise no output tax liability or input tax credit claim.

6. VAT registration.—(1) Every person required to be registered shall make, within such time, on such terms and in such manner as may be prescribed, an application to the Commissioner for VAT registration.

(2) The Commissioner shall, after registering such person within such time, on such terms and in such manner as may be prescribed, issue a VAT registration certificate containing a business identification number.

(3) If the application under sub-section (1) is not made as required under law, the Commissioner shall inform the matter in writing to the applicant.

7. Publication and preservation of a list of registered persons.—

(1) The Board shall, from time to time, prepare, in such manner as may be prescribed, a list of registered persons and publish, circulate and preserve such list.

(2) No person, whose name is not included in the published list, shall be considered a registered person.

(3) Every person, whose name is included in such list, shall be treated as a person registered under this Act.

8. Voluntary VAT registration.—(1) Any person, making a taxable supply in the process of economic activities are not required to be registered, may voluntarily make, within such time, on such terms and in such manner as may be prescribed, an application to the Commissioner for VAT registration.

(2) The Commissioner shall, after registering such person within such time, on such terms and in such manner as may be prescribed, issue a VAT registration certificate containing a business identification number.

9. Cancellation of VAT registration.—(1) If a registered person refrains from carrying on his economic activities, he may make, within such time, on such terms and in such manner as may be prescribed, an application to the Commissioner for the cancellation of VAT registration.

The Value Added Tax and Supplementary Duty Act, 2012

(2) A person, who continues to make taxable supplies, but does not require to remain registered any more, may, within such time, on such terms and in such manner as may be prescribed, may apply to the Commissioner for the cancellation of his registration:

Provided that a person who is registered voluntarily under section 8 shall require remaining registered for at least one year.

(3) The Commissioner may, within such time, on such terms and in such manner as may be prescribed, cancel the VAT registration.

(4) If a registered person does not apply for the cancellation of VAT registration under sub-section (1), and if it appears to the Commissioner, on appropriate enquiry, that the VAT registration of such person is liable to be cancelled, he shall issue an order directing such person to make an application for the cancellation of VAT registration; and if no such application is made in accordance with such order, the Commissioner may, *suo moto*, cancel the VAT registration of such person.

(5) If, after the cancellation of a VAT registration of a person, it appears to the Commissioner that such person is required to be enlisted, then he may, *suo moto*, or upon an application, enlist such person as a turnover taxpayer.

(6) Where registration of a registered person is cancelled, he shall—

- (a) without much delay, refrain from using or issuing any tax invoice, integrated tax invoice and withholding certificate, credit note, debit note, etc; and
- (b) return the VAT registration certificate, and all certified copies thereof, to the Commissioner within such time as may be prescribed, and pay the arrear taxes, and file a final VAT return.

10. Persons required to be enlisted and their enlistment.—(1) If a person, carrying on an economic activity, exceeds at the end of any quarter of a 12 (twelve)-month period, the enlistment threshold, but does not exceed the registration threshold, such person shall make, within 30 (thirty) days from the end of such a quarter, on such terms and in such manner as may be prescribed, an application to the Commissioner for enlistment as a turnover taxpayer.

(2) The Commissioner shall, after enlisting such person as a turnover taxpayer within such time, on such terms and in such manner as may be prescribed, issue a turnover tax certificate containing a business identification number.

The Value Added Tax and Supplementary Duty Act, 2012

11. Cancellation of enlistment.—(1) Every enlisted person may make, within such time, on such terms and in such manner as may be prescribed, an application to the Commissioner an application for the cancellation of an enlistment for the following reasons, namely—

- (a) if he ceases to carry on any economic activity;
- (b) if the turnover of his economic activity remains below the enlistment threshold proportionately for three consecutive tax periods.

(2) The Commissioner may, within such time, on such terms and in such manner as may be prescribed, cancel the enlistment of such person.

(3) An application for VAT registration shall be treated as an application for the cancellation of an enlistment, and the enlistment as a turnover taxpayer shall be deemed to have been cancelled on the date immediately before the date on which the Commissioner issues the VAT registration certificate.

(4) If any person does not make an application under sub-section (1) for the cancellation of enlistment, the Commissioner may pass necessary orders after cancelling the enlistment of such person within such time, and in such manner as may be prescribed.

12. Registration or enlistment, by the Commissioner, *suo moto*, of persons required to be registered or enlisted.—If, after proper enquiry, the Commissioner is satisfied that a person was required to be registered or enlisted but failed to make an application for such registration or enlistment, he shall, *suo moto*, register such person for VAT or enlist him for turnover tax and issue the appropriate certificate.

13. Responsibility of a registered or enlisted person to display certificates.—Every registered or enlisted person shall display the VAT registration certificate or turnover tax certificate, or a certified copy thereof, in such a fixed place of his economic activity as makes it easily visible.

14. Responsibility of a registered or enlisted person to keep informed of changes in information.—Every registered or enlisted person shall, in respect of any change in the following areas relating to his economic activity, inform the Commissioner within such time and in such manner as may be prescribed, namely—

- (a) of a change in the name of such person or the type of business, including the name of the business or any other commercial name;

- (b) of a change in the address or any other contact details of such person;
- (c) of a change in the places of his economic activity;
- (d) of a change in information relating to any bank account of such person;
- (e) of a change in the nature of one or more of the economic activities carried on by such person;
- (f) of any other prescribed information.

CHAPTER THREE IMPOSITION OF VAT

15. Imposition of VAT.—(1) Subject to other provisions of this Act, value added tax shall be imposed and payable on the taxable import and taxable supply.

(2) The payable amount of the Value Added Tax shall be assessed and determined by multiplying the VAT rate specified in sub-section (3) with the value of the taxable import or of the taxable supply.

(3) Unless otherwise provided in this Act, the rate of VAT, in relation to taxable import or taxable supply, shall be 15 (fifteen) percent.

16. Persons liable to pay value added tax.—Every person specified below shall be liable to pay VAT, namely—

- (a) in relation to taxable import: the importer;
- (b) in relation to any taxable supply in Bangladesh: the supplier;
- (c) in relation to any taxable supply of imported service: the recipient of such supply;
- (d) in relation to any sale, in the prescribed manner, of any goods by an auctioneer on behalf of a registered person: the auctioneer.

17. Supplies made within Bangladesh.—(1) For the purposes of section 15, the following supplies shall be treated to be made within Bangladesh, namely—

- (a) any supply made by a resident;
- (b) any supply made by a non-resident carrying on an economic activity from or through a fixed place in Bangladesh;
- (c) any supply other than the ones mentioned specified in clause (b) made by a non-resident if the supply—
 - (i) relates to an immovable property and the land attached to it situates in Bangladesh;

The Value Added Tax and Supplementary Duty Act, 2012

- (ii) relates to a goods and that is transferred, conferred, installed or assembled in Bangladesh;
- (iii) is any of the following and is made to VAT unregistered person:–
 - (A) the services are physically provided in Bangladesh by the service provider staying in Bangladesh at the time of supply;
 - (B) the services are directly related to land located in Bangladesh;
 - (C) the services are radio or television broadcasting or telecasting services received at an address in Bangladesh;
 - (D) the services are electronic services delivered to a person located in Bangladesh at the time of supply;
 - (E) the supply is of a telecommunications service initiated by a person located in Bangladesh at the time of supply, other than a telecommunications supplier or a person who is a global-roaming person temporarily staying in Bangladesh.

(2) For the purposes of sub-clause (ii) of clause (c) of sub-section (1), where goods are imported by a non-resident and supplied before they are entered for home consumption, such supplies shall be deemed to have been made outside Bangladesh.

(3) For the purposes of sub-subclause (E) of sub-clause (c) of sub-section (1), the person who initiates a supply of telecommunications services is the person–

- (a) identifiable by the supplier of the services as–
 - (i) the one who controls the initiation of the supply;
 - (ii) the one who pays for the services;
 - (iii) the one who contracts for the supply;
- (b) if more persons than one satisfy the conditions set forth I clause (a), the person who appears most on that list; and
- (c) if it is not possible for the supplier to identify, for whatever reason, the type or kind of supply or the real location of any of the listed persons, such a supply or all the supplies of telecommunications services made to such kinds of recipients shall be treated to have been made to the place where the actual or real residential or commercial address of the recipient of the tax invoice from the supplier is located.

The Value Added Tax and Supplementary Duty Act, 2012

18. Registered Supplier and registered recipient.—

Notwithstanding anything contained in section 17, a supply of services by a registered non-resident to a registered recipient shall be treated to have been made in Bangladesh, if—

- (a) the recipient of the supply carries on an economic activity from or through a fixed place in Bangladesh; and
- (b) the supply is made for the purposes of that economic activity or to that fixed place.

19. VAT Agent of non-residents.—(1) A non-resident, who does not carry on an economic activity from a fixed place in Bangladesh, shall appoint a VAT Agent.

(2) Such VAT Agent of a non-resident shall bear all responsibilities and carry out all activities of the non-resident, and shall be jointly and severally liable for the payment of all dues including taxes, fines, penalties, and interests that may be imposed.

(3) The VAT registration of the economic activities by a VAT Agent shall be in the name of the principal.

(4) The Board may prescribe the manner, conditions of appointment and the responsibilities of a VAT Agent.

20. Imported services reverse charged to recipient.—(1)

Notwithstanding anything contained in this Act, supply of any imported service shall be a taxable supply, if—

- (a) the recipient is a person registered or required to be registered and acquires such service in the process of his economic activities; and
- (b) such service is provided in Bangladesh in the process of an economic activity by a person registered or required to be registered, and—
 - (i) such service is taxable at a rate other than being zero-rated; and
 - (ii) such recipient of such service does not get as credit the entire amount paid as VAT.

(2) Value Added Tax payable by the recipient of a taxable supply of imported services is both output tax and input tax of that person.

(3) If an adjustment event occurs, or has occurred, in consequence of the supply of imported services, that service would be a taxable supply in consequence thereof and the recipient of such supply of such service shall be treated as the supplier thereof.

The Value Added Tax and Supplementary Duty Act, 2012

(4) For the purposes of the definition of "imported services", and of the application of this Act in relation to such services, if a person, registered or required to be registered, carries on economic activities from a fixed place in Bangladesh and from one or more fixed places outside Bangladesh,—

- (a) Such person, in respect of carrying on taxable activities in and outside of Bangladesh shall be treated as two separate persons;
- (b) the person outside Bangladesh shall be deemed to have made to the person inside Bangladesh (as defined for the purposes of this Act) a supply of a service containing some benefits of the nature of services through or as a result of the activities carried on by the person outside Bangladesh;
- (c) the time of the supply shall be determined on the assumption that a supply has been made; and
- (d) the value of the service shall be determined on the assumption that the supply was made by a non-resident outside Bangladesh to an associate in Bangladesh.

21. Zero-rated supplies.—(1) Notwithstanding anything contained in this Act, the following supplies shall be zero-rated, namely—

- (a) any supply specified in section 22, 23 and 24; or
- (b) the right to receive zero-rated supplies or supplies related to an option to buy or sell futures..

(2) If a supply is both exempted and zero-rated, it shall be treated as zero-rated and not exempted, under the provisions of this sub-section.

22. Land outside Bangladesh.—A supply of immoveable property shall be zero-rated if the land to which the immoveable property relates is outside Bangladesh.

23. Supply of goods for export.—(1) Supply of any goods for export shall be zero-rated:

Provided that the provisions of this sub-section shall not be applicable to the export of any goods whether re-imported or intended for re-import.

(2) The following supplies shall be zero-rated, namely—

- (a) if the goods is located outside Bangladesh at the time of supply and such goods is not assembled, installed or imported into Bangladesh, by the supplier;

The Value Added Tax and Supplementary Duty Act, 2012

- (b) if the goods is supplied anywhere outside Bangladesh after it is imported but before it is entered for home consumption, such goods shall be deemed to have been located outside Bangladesh at the time of supply;
- (c) supply of any goods to a tourist or to a visitor coming from abroad for consumption outside Bangladesh by any seller holding a licence to sell duty-free goods;
- (d) if the goods remains outside Bangladesh during the whole of a prescribed period, its supply on lease, hire, under licence or other supplies relating to the use of such goods shall be treated as separate supplies and each such supply shall be zero-rated:

Provided that if such goods remains in Bangladesh immediately before and after its stay in international territories, such leased goods shall be treated to have remained inside Bangladesh.

(3) Subject to the following conditions, the supply of a goods usable for repair, maintenance, cleaning, renovation, modification, or for any other similar work of any goods shall be zero-rated, namely–

- (a) if the goods supplied is assembled with, or become part of, such goods, or become unusable or damaged in consequence of the assemblage;
- (b) if such goods is temporarily imported into Bangladesh under the Customs Act; or
- (c) if such goods is brought temporarily into Bangladesh for receiving services, and, after it is received, it is exported from Bangladesh without using it for any purpose in Bangladesh other than receiving the service.

(4) Subject to the following conditions, a supply of goods for the repair or replacement of a goods under warranty shall be zero-rated, namely–

- (a) if such goods is supplied under an agreement with the non-resident and unregistered warrantor to the effect that the warrantor would give a consideration; and
- (b) if such goods is repaired or replaced without any charge to the owner.

(5) A goods supplied in the course of repair, maintenance, cleaning, renovation, modification, or otherwise physically affecting an ocean-going ship or an aircraft or any other vessel of the like kind engaged in international transport shall be zero-rated.

The Value Added Tax and Supplementary Duty Act, 2012

(6) A supply of stores, or of spare parts, relating to an aircraft or an ocean-going ship, engaged in international transport, shall be zero-rated, if the stores or parts are for use, consumption, or sale on the aircraft or the ship during a flight or a voyage.

Explanation: In this section, “stores” means stores for the use of the passengers or crew of an aircraft or of an ocean-going ship, or for the maintenance and repair of such an aircraft or of a ship, and also includes goods for use in the aircraft or ship, fuel, spare parts, tools and the like, whether or not for immediate use.

24. Supply Supplies of zero-rated services.—(1) The supply of a service directly related to any land situated outside Bangladesh shall be zero-rated.

(2) The supply of a service physically given on a goods situated outside Bangladesh at the time when such a service is rendered shall be zero-rated.

(3) Subject to the following conditions, the supply of a service for the repair, maintenance, cleaning, renovation, modification and the like, of any goods shall be zero-rated, namely—

- (a) if such goods is temporarily imported into Bangladesh under the Customs Act; or
- (b) if such goods is brought temporarily into Bangladesh for receiving a service, and is exported from Bangladesh after the service is given without being used in Bangladesh for any other purpose.

(4) The supply of a service included in the customs value of an imported goods shall be zero-rated.

(5) The supply of a service shall be zero-rated if it is given outside Bangladesh and is of a kind that is received by an individual at the time and place where it is given.

(6) Subject to the provisions of sub-section (5), the supply of a service shall be zero-rated, if—

- (a) the recipient of such a supply is—
 - (i) a non-resident who stays outside Bangladesh at the time of supply of the service; or
 - (ii) a resident and receives such service, in effect, staying outside Bangladesh at the time of the supply of the service; and
- (b) such service is not—
 - (i) directly related to any land situated in Bangladesh;

The Value Added Tax and Supplementary Duty Act, 2012

(ii) physically given on any goods situated in Bangladesh at the time of the supply;

(iii) provided, by global roaming services, to a person temporarily outside Bangladesh.

(7) The supply of a service shall not be zero-rated under subsection (4), if–

(a) such supply of a service relates to the acquisition of a right or option of a subsequent supply (which is neither exempted nor zero-rated) of any other type in Bangladesh;

(b) such service is supplied under an agreement with a non-resident with a view to supplying the same to a person not registered in Bangladesh.

(8) The supply of a service outside Bangladesh relating to the filing of a case, its prosecution, conferment of a right, its protection, transfer, transfer of a right, licensing or enforcement of rights for the protection of intellectual property rights shall be zero-rated.

(9) The supply of a telecommunications service by a telecommunications supplier to a non-resident telecommunications supplier shall be zero-rated.

(10) The supply of a service in favour of a goods under warranty of repair or replacement shall be zero-rated, subject to the following conditions, namely–

(a) if the supply of such service is made under an agreement with the warrantor to the effect that the warrantor, who is a non-resident and is not a registered person; and

(b) if such service is provided without any charge to the owner.

(11) The supply of the following services shall be zero-rated, namely:–

(a) a supply of services to any international transport;

(b) a supply of insurance services to the international transport of goods;

(c) a supply of the services of repair, maintenance, cleaning, renovation, modification, or otherwise physically affecting an aircraft or an ocean-going ship engaged in international transport;

(d) a supply to a non-resident, who is not registered, of services directly connected to the operation or management of an ocean-going ship or an aircraft engaged in international transport; or

(e) a supply of stevedoring services.

25. Travel Agent and tour operators.—Notwithstanding anything contained in this Act, the Board may decide if a tourism service, irrespective of whether it is provided in Bangladesh or not, shall be zero-rated or not, and may, in every tax period, formulate rules determining the value, on a general basis, of tourism service that are not zero-rated.

Explanation: For purposes of this section, "tourism service" means accommodation, food, tours, entertainment, and similar things commonly provided to tourists or international visitors.

26. Exempted supplies, or exempted imports.—Notwithstanding anything contained in this Act, the following supplies shall be exempted from VAT, namely:—

- (a) any supply or import specified in the first schedule; or
- (b) any supply relating to a right or option to receive an exempted supply.

CHAPTER FOUR MANNER OF VAT COLLECTION

Part-A: On Imports

27. Manner of VAT collection on taxable imports.—The Commissioner of Customs or the Customs Officer shall collect VAT on the taxable imports in the same manner and at the same time as he collects customs duty on such imports under the Customs Act even if import duty is not imposable on such import.

28. Determination of value of taxable imports.—The value of a taxable import shall be the summation of the following amounts, namely:—

- (a) the value of the goods determined for the imposition of import duty under the Customs Act; and
- (b) the amounts, if any, of customs duty, supplementary duty, or other taxes (other than VAT and advance income tax) payable on the import of the goods.

29. Determination of value of re-imported goods.—Where goods are re-imported after being exported, the value for assessment of VAT on such goods shall be the combination of the value to the extent that it is enhanced as a result of the repair and the expenses incurred on their insurance, freight and landing charges provided that the forms, features, characteristics and the qualitative standards of the goods remain unchanged after such repairs.

The Value Added Tax and Supplementary Duty Act, 2012

30. Imports for exports.—A goods brought for export, without being released for consumption inside Bangladesh, shall not be liable to any tax.

31. Payment of advance tax on import and its.—(1) Every registered person or a person required to be registered or an enlisted person, who makes a taxable import for his economic activities, shall make payment of the VAT or turnover tax in advance payable on the supply of his imported goods at the rate specified in sub-section (2).

(2) An advance tax, at the rate of 3 (three) percent of the value of the taxable import, shall be payable at the same time, and in the same manner as VAT is payable, on a taxable import.

(3) Every registered or enlisted importer who has made a payment of advance tax may, in the prescribed manner, claim, in the return of the related tax period, a decreasing adjustment equal to the amount paid as advance tax.

(4) Any person who has paid an advance tax but is neither registered nor enlisted may, in the prescribed manner, make an application to the Commissioner for a refund of such advance tax.

(5) The Commissioner shall, after receiving such an application, dispose it of in the prescribed manner. ,

Part-B: On General Supplies

32. Determination of value of the taxable supply.—(1) Subject to the provisions of this section, the value of a taxable supply shall be the consideration for such supply, reduced by an amount equal to the tax fraction of that consideration.

(2) The consideration for a taxable supply of an imported service shall be the value of such supply or, if the supplier and the recipient are related to each other, its fair market price.

(3) Save and except those determined under sub-section (7), the value of a taxable supply a registered person makes to an associate shall be the fair market price of such supply, reduced by the tax fraction of that price, if—

- (a) such supply is made for no consideration, or for a consideration that is lower than the fair market price; and
- (b) such associate would not be entitled to a credit for all of the input tax arising out of such supply.

The Value Added Tax and Supplementary Duty Act, 2012

(4) Unless otherwise specified, the value of a taxable supply without a consideration shall be zero.

(5) The value of any supply other than the taxable ones shall be the consideration for such supply.

(6) The value of a taxable supply of a sale of residential premises shall be determined in the prescribed manner.

(7) The value of taxable supply of immoveable property by a partner of a residential premises built under a property development joint venture initiative to a landowner thereof shall be determined in the prescribed manner.

Explanations: In this section,—

(a) “residential premises” means any premises that are intended to be, or are capable of being, occupied as a residence, and includes any garage, or any similar space; but does not include any premises or part of premises used to provide commercial accommodation; and

(b) “commercial accommodation” means—

(i) any hotel, motel, inn, boarding house, guest house, hostel, or similar establishment in which lodging or overnight stay is regularly or normally provided to four or more persons in exchange of money; or

(ii) any other accommodation offered for residential premises for individuals other than as their main or permanent residence;

but it does not include any student hostel used as a part of an approved educational institution.

33. Time of payment of VAT on taxable supplies.—(1) The VAT imposed on a taxable supply shall become payable at the time when any of the following activities first occurs, namely:—

(a) when such supply is made;

(b) when a tax invoice for such supply is issued; or

(c) when a part or the whole of the consideration is received.

(2) Where a progressive or periodic supply is treated as a series of separate supplies, VAT imposed on such supplies becomes payable at the time when any of the following activities occurs first, namely:—

(a) when separate invoices are issued for each such supply;

(b) when receivable consideration against each such supply is received in part or in full;

The Value Added Tax and Supplementary Duty Act, 2012

- (c) when the price against the series of supplies becomes payable; or
- (d) the first day of the tax period to which the payable consideration relates, if it is possible to ascertain the payable amount at that time.

(3) Notwithstanding the provisions of sub-section (2), if a progressive or periodic supply of any goods (such as: water, gas, oil or electricity) or a service is made through a distribution network, the imposed VAT shall become payable within 90 (ninety) days from the date on which invoices against each such supply are issued.

34. Progressive or periodic supplies.—(1) Each progressive or periodic supplies shall be treated as a separate supply.

(2) If each of the progressive or periodic supplies is not readily separable, such supply shall be treated as a series of separate supplies each corresponding to the proportion of the supply to which such separate part of the consideration relates.

(3) In relation to each part of a supply under a lease or of a right to use any property, the time required continuously over the period of such lease or right of use shall be treated as the time of supply.

35. Single and multiple supplies.—Where a supply consists of more than one element, tax shall be imposed in the following manner, namely—

- (a) every supply shall generally be regarded as distinct and independent;
- (b) a supply consisting of the characteristics of a single supply from an economic point of view shall not be artificially split;
- (c) the essential features of a transaction shall be ascertained to determine whether the supply is single or more than one distinct supply;
- (d) the supply, if constituted with one or more elements, shall be a single supply, and other elements shall be regarded as part of such a single supply;
- (e) a supply shall be regarded as ancillary to a principal supply, if it is not considered as the principal matter by the recipient himself, but merely as a means for better enjoyment of the principal supplied matter.

Part-C: On Special Supplies

The Value Added Tax and Supplementary Duty Act, 2012

36. Sale of an establishment as a going concern.—(1) Where a person transfers an establishment in Bangladesh as his running business in the process of an economic activity, such transfer shall be treated as a single supply and such single supply shall not be regarded as a supply made in Bangladesh.

(2) In the matter of applicability of the provisions of sub-section (1) the running business establishment has to be acquired with an intent to keep the economic activity going after its sale is effected and the purchaser has to fully acquire all that is necessary for an uninterrupted management of the economic activity thus transferred.

(3) If a part of a running business establishment is capable of being operated separately, such part shall be regarded as a separate economic activity.

(4) In the matter of applicability of the provisions of sub-section (1), for the purposes of working out the supplier's entitlement to input tax credits,—

(a) the input tax paid on a service taken up for transfer shall be determined in continuation of other activities of the supplier; and

(b) the value of a transfer shall not be included in the proportionate credit ascertained under section 47.

(5) No person shall transfer a running business establishment without making full payment of all payable taxes and arrear dues.

(6) Notwithstanding the provision of sub-section (5), a Commissioner may, subject to such conditions and such limitations as may be prescribed, permit a transfer, if the purchaser submits an unconditional bank guarantee from a scheduled bank for full payment of all payable taxes arrear dues.

(7) Under the provision of sub-section (1), the purchaser shall be treated as the successor to the supplier from the date of the transfer and the supplier shall provide the purchaser with the information necessary to properly comply with the provisions of this Act, and the Board may make such rules as are necessary to make sure that the supplier provides such information.

37. Rights, options, and vouchers.—(1) Where a right or an option is exercised, the consideration for a supply made through an exercise of such right or option shall be equal to the remainder, if any, of the consideration given for such supply.

The Value Added Tax and Supplementary Duty Act, 2012

(2) Where a voucher is accepted as payment, in part or in full, for a supply; the consideration for such supply shall be the remainder of the value after subtracting the value of such voucher.

(3) Where the supply of a voucher is not a taxable supply, the provision of sub-section (2) shall not apply.

Explanation: In this section, “voucher” means any given receipt ticket, acknowledgement receipt or any similar document issued electronically the bearer whereof acquires the right to have the supplies of any goods, service, or immovable property, but does not include a postage or revenue stamp.

38. Supply of prepaid telecommunications products or services.—(1) Where a telecommunications supplier supplies a prepaid telecommunications product or a service at a discount to a telecommunications intermediary, the consideration for such a supply shall be assessed inclusive of the discount:

Provided that in relation to a supply of telecommunications product or service by one supplier to another, the provision of sub-section (2) shall not be applicable.

(2) Where a telecommunications intermediary buys and on-sells a prepaid telecommunications product, such sale shall not be treated as a taxable supply.

(3) Where a telecommunications supplier supplies a prepaid telecommunications product or a service through its agent, the consideration for such a supply by the telecommunications supplier shall be assessed inclusive of the commission paid to such agent.

(4) The distribution of a prepaid telecommunications product by a telecommunications supplier or by a telecommunications intermediary acting as an agent of another telecommunications intermediary, shall not be treated as a taxable supply under this Act.

(5) A telecommunications supplier who supplies a prepaid telecommunications product and pays VAT in compliance with the provisions of this section may claim a decreasing adjustment, if—

- (a) the face value, in part or in full, of the product is used to purchase something from a person other than the telecommunications supplier;
- (b) the other person—
 - (i) makes the supply through an economic activity carried on in Bangladesh; or
 - (ii) is registered; and

The Value Added Tax and Supplementary Duty Act, 2012

(c) the telecommunications supplier pays an amount of money to such other person in respect of such a supply.

(6) The amount of the decreasing adjustment shall be equal to the tax-fraction of the amount paid to that other person, and the adjustment shall be made in the tax period in which the payment is made.

(7) The Board may frame rules prescribing the means of a proof of a right to an input tax credit and the manner of claiming tax credit thereof for a person who uses a prepaid telecommunications product or a service.

Explanations: In this section,—

(a) “prepaid telecommunications product” means a phone card, prepay card, recharge card, or prepayment for acquisition of telecommunications goods by other means, or airtime for telecommunications services, in whichever form or by whatever name called, including internet access time, or download capacity;

(b) “telecommunications intermediary” means a person who acts as a distributor, representative, VAT agent, or an intermediary in relation to a prepaid telecommunications product;

(c) “telecommunications supplier” means a supplier of telecommunications services, but does not include a telecommunications intermediary; and

(d) “telecommunications service” means a service relating to transmission, emission, or reception of signals of writings, projection of images, sounds, or information of a similar kind by wire, radio, optical, or other similar electromagnetic or electronic signalling system,—

And the following would also be included in it, namely,—

(i) such transfer or assignment service of the right to use capacity for such transmission, emission, or reception of signals; and

(ii) the service containing the provision of access to global or local information networks;

but does not include the service of supply of underlying writings, images, sounds, or information.

39. Lotteries, lucky draws, housie, raffles, and similar undertakings.—(1) Where a person runs a lottery, lucky draw, housie, raffle, or similar undertaking, the consideration for tickets (by whichever name described) sold by such person shall be the price of the ticket.

The Value Added Tax and Supplementary Duty Act, 2012

(2) The price of the tickets sold at a discount to distributors or agents shall be calculated exclusive of the discount.

Explanation: In this section, "price of the ticket" means the amount of money payable by the buyer, who holds the ticket with a desire to win, and participates in the undertaking.

40. Value of in-kind benefits given to an employee or officer.—

(1) Where a person, registered or required to be registered, makes a supply of an in-kind benefit in lieu of cash to any of his employees or officers, such a supply shall be treated to have been for personal ends; the price of such in-kind benefits shall be taxable.

(2) Where a person, registered or required to be registered, supplies to any of his officers or employees a service or an immovable property without a consideration or at a price less than the fair market price, the value of such service or such immovable property shall be its fair market price.

41. Lay-by sales.—(1) Where a supply of goods is made under a lay-by agreement,—

(a) the output tax on such supply shall become payable when payments for such supply are made and, in each tax period, taxes shall be assessed and paid at the time of payment of the price; and

(b) the amount of assessed output tax in each tax period shall be the tax-fraction of the payments made in that period.

(2) Where a supply of any goods is made under a lay-by agreement, separate tax invoices shall be required to be issued against payment of each instalment.

42. Cancelled transactions.—(1) Where a transaction for a supply is cancelled, and a portion of the consideration previously received is retained by the supplier at the time of returning it, then the tax applicable on the portion thus retained may be adjusted while making adjustments in consequence of the cancellation.

(2) If a transaction for any supply is cancelled, and the supplier realises any money from the recipient as a consequence thereof, that realised money shall be treated as the consideration for the supply in the tax period in which it is realised and taxes shall be payable.

43. Sale of property to pay off a debt.—(1) Where a person (the creditor) takes a supply, by way of sale, of the property of another person

The Value Added Tax and Supplementary Duty Act, 2012

(the debtor) in full or partial settlement of a debt owed by the debtor to the creditor,—

- (a) the supply shall be deemed to have been made by the debtor;
- (b) the creditor shall be liable to pay the taxes, if any, payable on the supply; and
- (c) After payment of the debt and other debts, payable Value Added Tax shall be liable to be deposited on a priority basis before any surplus money may be returned to the debtor.

(2) The debtor and the creditor shall be jointly and severally liable for the payment of the taxes.

(3) The Board may prescribe the conditions for, and the manner in which, an unregistered creditor may pay Value Added Tax under the provisions of this section.

44. Vending machines.—(1) Where a taxable supply of any goods is made through a vending machine, meter, or other similar automatic devices (other than a pay telephone) that are operated by coins, note or tokens, the tax shall become payable at the time when the coins, notes or tokens are taken out from such vending machines, meters, or other automatic devices by the supplier or any person on his behalf.

(2) Where a taxable supply is made through a vending machine, meter, or other automatic devices, and payment for such supplies is made in a prescribed manner tax shall become payable at the time when the recipient of such supply makes the payment to the supplier.

CHAPTER FIVE

ASSESSMENT OF NET PAYABLE TAX BY THE TAXPAYER AND PAYMENT THEREOF

45. Manner of assessing net payable tax on supplies and payment thereof.—(1) The amount of net tax payable by a taxpayer for any tax period shall be assessed in the following manner, namely—

- (a) by adding together all of the output taxes and supplementary duty payable in such tax period;
- (b) by subtracting all of the input tax credits entitled to be claimed in such tax period from the summation of taxes assessed under clause (a);
- (c) by adding together all of the increasing adjustments of that registered person in such tax period; and

The Value Added Tax and Supplementary Duty Act, 2012

(d) by subtracting all of the decreasing adjustments of that registered person in such tax period.

(2) The net payable tax assessed in the process outlined under subsection (1) shall, in the prescribed manner, be paid by the taxpayer before filing the return for such tax period.

46. Input tax credit.—(1) Except as provided otherwise in this Act, a registered person shall be entitled to an input tax credit against the Value Added Tax imposed on a taxable supply or a taxable import, if—

(a) the import is made in the course of such person's economic activity and for a taxable supply by such person or is supplied to him; and

(b) in the case of a supply, such person paid, or is liable to pay, the consideration for the supply.

(2) No registered person shall claim input tax credit, if—

(a) the value of a taxable supply exceeds Taka 1,00,000 (one lakh) only; and

(b) the consideration, in part or in full, against any supply is paid in cash instead of through a banking channel.

(3) No input tax credit shall be allowed against an acquisition or import, if—

(a) such acquisition or import relates to a passenger vehicle, or its spare parts or for the repair and maintenance services of such vehicle: provided that input tax credit may be allowed when dealing in vehicles, renting them out or supplying transportation services are included in the economic activities of such person and the vehicle is acquired for that purpose;

(b) such acquisition or import relates to entertainment or is used to provide entertainment: provided that input tax credit may be allowed when provision of entertainment relates to such person's economic activities and the entertainment is provided in the normal course of his economic activities;

(c) such acquisition relates to a person's membership or right of entry in a club, association, or society, of a sporting, social, or recreational nature;

(d) such acquisition relates to transportation services: provided that input tax credit may be allowed when an in-kind supply is made to an employee in lieu of cash and a supply free of taxes under section 40;

The Value Added Tax and Supplementary Duty Act, 2012

(e) such acquisition relates to a goods subject to supplementary duty under special provisions enunciated by the Board under section 58.

(4) A registered person shall, in support of his claims for input tax credit at the time of filing of returns, be in possession of the flowing documents, namely—

(a) in case of an import, a bill of entry bearing the name of the importer and the business identification number, and an instrument issued by the Customs Authority certifying that the goods have been cleared for home consumption;

(b) in case of a supply, a tax invoice issued by the supplier;

(c) in case of a withholding entity, a combined tax invoice and withholding certificate issued by the supplier.

(5) The recipient of a supply of an imported service shall not be entitled to claim an input tax credit against such supply unless he includes in the return the output tax payable on the supply of such imported service.

(6) Every claim of an input tax credit by a registered person shall be made either in the tax period in which VAT is paid or within the two succeeding tax periods, and such claim of input tax credit thereafter shall be time-barred.

47. Partial input tax credit.—(1) Where a registered person pays or is liable to pay a part of the consideration for a taxable supply, any input tax credit to which the person is entitled shall be calculated on the basis of the amount of the consideration such person pays or is liable to pay.

(2) A registered person shall be entitled to claim input tax credit against an import or acquisition in a tax period; but if he is not entitled to the input tax credit in full, his entitlement to it against his total imports and acquisitions shall be calculated under the provisions of sub-section (3).

(3) For each tax period, the amount of the input tax credits that may be allowed for the imports or acquisitions to which this section relates shall be calculated according to the following formula:

$$I \times T/A$$

where—

I is the total amount of input tax originating from imports or acquisitions to which this sub-section relates and for which a credit is sought in such tax period;

The Value Added Tax and Supplementary Duty Act, 2012

T is the value paid by the person mentioned below of all taxable supplies during the tax period; and

A is the value paid by the registered person of all the supplies during a tax period.

(4) For purposes of this section, the Board may determine—

- (a) which input or inputs shall or shall not be included in the above formula;
- (b) when and how T/A fraction shall be rounded up or down to full number;
- (c) the annual adjustment made at the end of each calendar year;
- (d) the special procedure in relation to receiving partial tax credit by the suppliers of financial services;
- (e) the actual use of any property with the claimed input tax credit in relation to additional adjustments made against capital assets.

48. Adjustments.—When an adjustment event occurs, a taxpayer may, at such amount, on such terms, within such time and in such manner as may be prescribed, claim adjustments in the following cases, namely:—

- (a) an increasing or decreasing adjustment with respect to withholding tax;
- (b) an increasing or decreasing adjustment applicable in consequence of an annual re- assessment;
- (c) an increasing adjustment for not making payments through banking channels;
- (d) an increasing adjustment for goods put to a private use;
- (e) an increasing adjustment of input tax and VAT on being registered;
- (f) an increasing adjustment on cancellation of registration;
- (g) an increasing adjustment for payment of any interest, monetary penalty, fine, fee, etc;
- (h) a decreasing adjustment in relation to second-hand goods purchased for re-sale;
- (i) a decreasing adjustment in relation to a policy of insurance;
- (j) a decreasing adjustment in relation to a lottery, lucky draw, raffle draw, housie or similar undertakings;
- (k) an increasing or decreasing adjustment for the change in the tax-rate;

The Value Added Tax and Supplementary Duty Act, 2012

- (l) a decreasing adjustment allowed for a negative amount carried forward from a previous tax period;
- (m) a decreasing adjustment allowed for VAT overpaid in a previous tax period; or
- (n) any other prescribed increasing or decreasing adjustment.

49. Tax withheld at source and increasing adjustment by withholding entity.—(1) Subject to the provisions of sub-section (2), if a supplier other than a withholding entity makes a supply, which is not exempted or zero-rated, to a withholding entity of a value of more than Taka 10 (ten) thousand under an agreement, tender or work order, the withholding entity shall withhold, at source, not more than one-third of the tax-fraction of that supply from the consideration payable to the supplier.

(2) If a supplier is not registered or enlisted, and if a combined tax invoice and withholding certificate is not issued, the withholding entity shall not receive any supply from such supplier and shall pay no price against such supply to the supplier.

(3) A withholding entity shall make an increasing adjustment for the amount of withheld VAT, and shall pay the withheld VAT in such manner and at such time as are specified below, namely:—

- (a) for a registered withholding entity: at the time of filing the return for the tax period relating to the supply on which tax was withheld; and
- (b) for a withholding entity not registered: at the prescribed time and in the prescribed manner.

(4) For the tax withheld at source and for the deposit thereof to the government Treasury, the withholding entity and the supplier shall be jointly and severally liable.

50. Decreasing adjustment by the supplier after the tax withheld at source.—(1) If a tax is withheld at source, the registered person may, in the prescribed manner, make a decreasing adjustment of an amount equal to the amount of money withheld at source.

(2) The adjustment shall be claimed in the tax period in which the tax payable on a supply is paid or within the next six months after such tax period is over and a claim for such adjustment after such period shall be time-barred.

(3) No decreasing adjustment shall be claimed by a supplier if he does not issue a combined tax invoice, and withholding certificate in favour of the withholding entity.

CHAPTER SIX

TAX INVOICES AND OTHER DOCUMENTS

51. Tax invoices.—(1) Every registered supplier shall, at the date when VAT becomes payable on the taxable supply, issue, on or before such date, a serially numbered tax invoice containing the following information, namely:—

- (a) the date and time of issue of the invoice;
- (b) the name, address and business identification number of the supplier;
- (c) the name, address and business identification number of the buyer if the value of the supply is more than Taka 25 000.00 (twenty- five thousand) only;
- (d) A description and quantity of the goods supplied, and the actual time and date of such supply;
- (e) the value of the supply (exclusive of VAT);
- (f) the VAT- rate applicable to the supply;
- (g) the amount of payable VAT.
- (h) the summation of the price of supply and the payable VAT; and
- (i) any other information prescribed by the Board.

(2) No input tax credit shall be admissible against a tax invoice if the information specified in clause (c) of sub-section (1) is not included in such invoice.

(3) The provisions of this section shall not apply where those of section 53 apply.

52. Credit notes and debit notes.—(1) Every credit or debit note shall include the following information, namely:—

- (a) the serial number of the credit or debit note, and the date and time of its issue;
- (b) the name, address and business identification number of the supplier;
- (c) the serial number, date and time of the relevant original tax invoice;
- (d) the nature of the adjustment;
- (e) the effect on the amount of VAT;

The Value Added Tax and Supplementary Duty Act, 2012

- (f) the name, address and business identification number of the recipient of the supply if the amount of VAT payable on the supply is more than Taka 5 000.00 (five thousand) only; and
- (g) any other information necessary to identify the amount of any increasing or decreasing adjustments because of any adjustment event.

(2) If a credit note does not contain the information specified in clause (f) of sub-section (1), it shall not be used in support of a claim for any decreasing adjustment.

53. Integrated tax invoice and withholding certificate.—(1) A registered person, other than a withholding entity, who makes a supply to a withholding entity shall, on or before the date of making such supply, issue to the withholding entity an integrated tax invoice and withholding certificate containing the prescribed information.

(2) The form and manner of the integrated tax invoice and withholding certificate shall be prescribed by the Board.

(3) A copy of the integrated tax invoice and withholding certificate, which is required to be attested by the withholding person, shall be preserved by the supplier along with his other records till such time as may be prescribed by the Board.

54. Other provisions relating to tax documents.—The Board may frame rules in respect of tax documents and issuance of copies thereof, and of the terms of preservation, manner and time limits of submission thereof.

CHAPTER SEVEN IMPOSITION AND COLLECTION OF SUPPLEMENTARY DUTY

55. Imposition of supplementary duty.—(1) Supplementary duty shall be imposable and payable on the import of goods, the supply of goods manufactured in Bangladesh and on the supply of services rendered in Bangladesh If they are subject to supplementary duty in Bangladesh.

(2) Notwithstanding anything contained in sub-section (1), no supplementary duty shall be imposed on an import of a goods subject to supplementary duty if such goods is imported for export, and not for home-consumption.

The Value Added Tax and Supplementary Duty Act, 2012

(3) Notwithstanding anything contained in sub-section (1), no supplementary duty shall be imposed on the supply of goods or services that are zero-rated under Chapter Three of this Act.

(4) The amount of payable supplementary duty shall be,—

- (a) if a rate of supplementary duty is specified for the goods or services subject to such duty in column (4) of the Second Schedule, the amount arrived at by multiplying the dutiable value of the goods or services by such rate; or
- (b) if a specific amount of supplementary duty is specified against a goods or service, subject to supplementary duty, in column (4) of the Second Schedule, such amount.

(5) Supplementary duty on the supply of goods or services subject to supplementary duty shall be payable at only one stage.

56. Persons liable to pay supplementary duty.—Every person specified below shall be liable to pay supplementary duty, namely:—

- (a) in the case of import of goods subject to supplementary duty: the importer;
- (b) in the case of supply of goods manufactured in Bangladesh and subject to supplementary duty: the supplier; or
- (c) in the case of supply of services subject to supplementary: the supplier of such services unless otherwise specified,

57. The value for imposition of supplementary duty.—For the purposes of imposing supplementary duty, the value of the goods or services subject to supplementary duty shall be as follows, namely:—

- (a) in relation to an imported goods subject to supplementary duty, the value that is arrived at adding customs duty and regulatory duty (if any) with the value on which customs duty is leviable under section 25 or 25(a) of the Customs Act: customs duty is leviable:
- (b) in relation to a supply of goods or services subject to supplementary duty, the value of such taxable supply shall be arrived at by deducting the supplementary duty from the value determined under section 32:

Provided that if the supply of any goods or service subject to supplementary duty is made without any consideration or with inadequate consideration, the value for imposition of supplementary duty on such goods or service shall be arrived at by deducting supplementary duty

The Value Added Tax and Supplementary Duty Act, 2012

*from the tax fraction of the fair market price of such supply;
and*

(c) in relation to any goods where VAT is imposed on the basis of retail prices, the retail price described in section 58(2) shall be regarded as the value for imposition of supplementary duty.

58. Special schemes for tobacco and alcoholic goods.—(1) For the purposes of imposition and realization of supplementary duty on the following goods manufactured in Bangladesh and subject to supplementary duty, the Board may, subject to the provisions of this Act or the rules made thereunder, make a special scheme to be complied with by the manufacturers of such goods, namely—

- (a) tobacco products or any other similar product, including products blended with tobacco; or
- (b) alcoholic drinks, ingredients of alcoholic drinks or any other similar product.

(2) The Board may, by means of such special scheme, set a maximum retail price for the goods, which shall be treated as the value for imposition of VAT and supplementary duty.

(3) Such special scheme shall include the following matters, namely:—

- (a) matters in relation to the stamps, banderols or special signs or marks of any particular size or design containing security features on the packages, bottles, pots or containers of such goods, or on the bodies thereof, or any other similar matter; and
- (b) matters in relation to the manufacture, acquisition, distribution, preservation, use supervision, observation, accounting, disposal, etc. of such stamps, banderols, or of the special signs or marks.

59. Collection of supplementary duty on imports.—(1) The supplementary duty on an imported goods subject to such duty shall be collected at the same time and in the same manner as the customs duty on such goods is collected.

(2) Save as otherwise provided in this Act, in relation to an import of goods, for the purposes of collecting and paying the supplementary duty, the provisions of the Customs Act shall (with necessary modifications and adaptations) apply in such a way as if the supplementary duty payable on imports were a customs duty.

The Value Added Tax and Supplementary Duty Act, 2012

(3) Without affecting the generality of the provision of sub-section (2), whenever any bond or guarantee is demanded under the Customs Act, the amount so demanded shall be calculated in such manner as if the payable supplementary duty were a customs duty on the imported goods.

60. Collection of supplementary duty on supplies.—(1) Supplementary duty on the supply of goods or service subject to such duty shall become payable at the same time when VAT becomes payable on such supply.

(2) Every person liable to pay supplementary duty shall, in the VAT return, includes the information relating to the supplementary duty.

61. Presumed supply of goods subject to supplementary duty.—

(1) If a person, who manufactures any goods subject to supplementary duty, fails, at the time of an audit, to account for the quantity of such goods supplied by him, such person shall be presumed to have supplied such goods for a fair market price thereof.

(2) If such goods are destroyed or damaged for any of the following reasons, no supplementary duty shall be payable, namely—

(a) by fire or any other natural disaster; or

(b) deteriorated, damaged or finished off without being supplied to a person:

62. Decreasing adjustments for supplementary duty.—Any person importing a goods subject to supplementary duty may, within such time and in such manner as may be prescribed, make a decreasing adjustment for the supplementary duty paid by him on the import if the goods is in compliance with the conditions of a drawback of duties under the Customs Act.

CHAPTER EIGHT
IMPOSITION AND COLLECTION
OF TURNOVER TAX

63. Imposition and collection of turnover tax.—(1) Every person enlisted or required to be enlisted shall pay turnover tax at the rate of 3 (three) percent on the turnover of his economic activities:

Provided that the amount of the advance tax paid by such person shall be adjusted against such turnover tax.

(2) The turnover tax payable in a tax period by any enlisted person shall be paid before filing the return for such period.

(3) Manners in respect of assessment and collection of the payable turnover tax, of keeping accounts, of the refund of turnover tax, of adjudication and of other auxiliary matters relating thereto shall be determined by rules.

CHAPTER NINE
FILING OF RETURN AND AMMENDMENTS
THERETO

64. Filing of return.—(1) Every person, registered or enlisted or required to be registered or required to be enlisted, shall, in such manner as may be prescribed by the Board, file the return for each tax period within a period not exceeding 15 (fifteen) days after such tax period expires.

(2) A VAT return, inclusive of the information on the payment of supplementary duty, shall be filed.

65. Late filing of return.—The Commissioner may, on an application made within such time, on such terms and in such manner as may be prescribed, grant a person permission to file a return late, but such permission shall not extend the actual date for payment of taxes beyond more than 1 (one) month or shall not alter the liability to pay interests.

66. Amendments to return.—The Commissioner may, on an application made by a taxpayer within such time, on such terms and in such manner as may be prescribed, grant such taxpayer a permission to file an amended return after removing the clerical mistakes and omissions from such return; but the Board may determine the surrounding circumstances on the basis of which a decreasing adjustment

The Value Added Tax and Supplementary Duty Act, 2012

may arise as a result of any amendment made under this section and returns may be filed without paying monetary penalty.

67. Filing of complete, additional, or alternative returns.—The Commissioner may, upon serving a notice, pass an order directing a person to file, within such time, on such terms and in such manner as may be prescribed, a complete, additional, or alternative return for a tax period; and similar order may also be passed for such registered person in relation to non-filing of an original return for any specified tax period.

CHAPTER TEN CARRY FORWARD OF NEGATIVE NET AMOUNT AND REFUNDS

68. Carry forward and refund of negative net amount.—(1) If, in a tax period, the sum of input tax and the receivable decreasing adjustments exceeds the sum of output tax, supplementary duty and increasing adjustments for such tax period, resulting in a net negative payable amount of money, then—

- (a) in relation to an economic activity involving construction, house building, land development, or property development: the excess amount of money shall be carried forward indefinitely and may be deducted in subsequent tax periods in accordance with the provision of this section; and
- (b) in relation to other cases: the excess amount of money shall be carried forward and may be deducted over the following 6 (six) tax periods, after which any remaining excess money shall be refunded in accordance with the provision of this section.

(2) In relation to an economic activity involving construction, house building, land development or property development, every registered person shall be allowed a decreasing adjustment for an excess amount of money carried forward from the previous tax period.

(3) Where sub-section (2) does not apply, a registered person shall be allowed a decreasing adjustment for excess amounts of money carried forward from earlier tax periods in the following manner—

- (a) in a subsequent tax period, the amount of tax payable for such period shall be determined by taking into account all output taxes and all adjustments other than the adjustments allowed under this section;

The Value Added Tax and Supplementary Duty Act, 2012

- (b) if the amount of money thus assessed is in the positive,—
 - (i) such portion of the excess amount of money carried forward from the earlier tax periods shall be allowed as decreasing adjustments as would reduce the payable amount of money to nil; and
 - (ii) the excess amount of money carried forward shall be adjusted in a chronological order, with the adjustment for the oldest being made first and the most recent being adjusted last;
 - (c) such amounts of money carried forward from earlier tax periods as cannot be adjusted under clause (b), shall be carried forward until—
 - (i) all of the excess amount carried forward is deducted for a tax period; or
 - (ii) a portion or all of the excess amount of money carried forward for a particular period is carried forward for six tax periods.
- (4) If a portion or all of the excess amount of money is carried forward for 6 (six) tax periods without being adjusted,—
- (a) and if such amount does not exceed taka fifty thousand (50,000), it shall continue to be carried forward until it is reduced to nil; or
 - (b) such amount of money, in other cases, shall, on receipt of an application made on such terms and in such manner as may be prescribed, be refunded within a period of 3 (three) months.
- (5) Where a person carries on all the economic activities involving construction, house building or property development and other economic activities, all negative net amount of money shall be carried forward in accordance with the provisions of sub-section (2) unless the person is separately registered under section 5 in respect of those construction, house building or property development activities and those other economic activities.
- (6) The Board may make rules prescribing a phased reduction in the number of tax periods for which negative amounts should be carried forward, including directive rules for the phased inclusion of the construction, house building and property development sector in the rules applicable to other sectors.

69. Refunds without carry forward of net negative amounts of money.—(1) Notwithstanding anything contained in the provisions of section 68, if the amount of money payable by a registered person is in the negative, such person shall be entitled to a refund of such amount if the Commissioner is satisfied that,—

- (a) fifty percent or more of such person's turnover is or will be derived from zero-rated supplies under Chapter Three;
- (b) fifty percent or more of such person's expenditure on inputs is on imports or acquisitions used in the manufacture of zero-rated supplies under Chapter Three;
- (c) in other cases, the Commissioner is satisfied that the nature of such person's economic activity (the economic activity to which sub-section (2) of section 68 does not apply), regularly results in excess input tax credits.

(2) When an application, on the terms and in the manner as prescribed under this section, is made for a refund of money,—

- (a) and if the amount does not exceed taka fifty thousand (50,000.00) only, such amount shall be carried forward as a decreasing adjustment in the next tax period; or
- (b) the Commissioner shall, in other cases, refund the money within 3 (three) months from the date of the application.

70. Application of the refunded money.—(1) No refund of money shall be made to a person under section 68 or 69 unless and until the applicant files all VAT returns up to the current tax period.

(2) If a refund becomes payable to a person, the Commissioner shall apply the refund first in reduction of any outstanding liability of the person for taxes (including interest, monetary penalties, or fines) payable under this Act.

(3) After application of sub-section (2), if there is a remainder of money and such amount does not exceed taka fifty thousand (50,000.00) only, the Commissioner may choose not to refund the amount and may, instead, accord permission to the registered person to treat the amount as a decreasing adjustment in a tax period determined by the Board.

71. Refund of taxes paid by diplomats and other international organizations.—(1) The Commissioner may, within such time, on such terms and in such manner as laid down in this Act or in any rule made thereunder, grant refund of the taxes paid on the following supplies, namely—

The Value Added Tax and Supplementary Duty Act, 2012

- (a) a supply exempted from VAT under any Convention for the time being in force in Bangladesh or any similar international agreement;
- (b) a supply made to any diplomatic or consular mission of a foreign country established in Bangladesh for the official purposes of such mission.

(2) Exemptions from VAT shall be dealt with by refund, and not by exempting or zero-rating such supplies made to the person referred to in sub-section (1).

72. Refund or adjustment of taxes paid in excess.—If a person pays taxes in excess of what is shown as payable tax in the return for a tax period, such excess payments may, within such time, on such terms and in such manner as may be prescribed, be claimed as refund through an application or may be shown as a decreasing adjustment in the next return.

CHAPTER ELEVEN TAX DETERMINATION BY THE COMMISSIONER

73. Tax determination.—(1) In the following cases, the Commissioner may, after giving a person an opportunity of being heard, determine the amount of tax payable by such person, namely—

- (a) if, on examining a return, the Commissioner is not satisfied as to the accuracy of such return or reasonably believes that—
 - (i) in such return, the person has made false or untrue statement in respect of output tax, supplementary duty or an increasing adjustment or a decreasing adjustment, or has irregularly claimed an input tax credit or a decreasing adjustment; or
 - (ii) in a turnover tax return, such person has made a false declaration in respect of his turnover for any tax period;
- (b) if such person fails to file a return within the prescribed time;
- (c) if such person fails to pay the payable tax; or
- (d) if such person has been paid a refund or given a drawback to which he was not entitled.

(2) In the cases specified in sub-section (1), the Commissioner shall, within 45 (forty-five) working days of making a tax determination or an amended tax determination, serve a notice upon such person, which

The Value Added Tax and Supplementary Duty Act, 2012

shall, along with other necessary particulars, contain the following matters, namely:—

- (a) the reason for such tax determination, the amount of tax payable as a result of the determination and a description of the basis on which such amount of tax is determined;
- (b) the date by which such tax shall be payable; but such date shall be at least 15 (fifteen) working days after the date on which the notice is served; and
- (c) the time and place of filing appeal against such tax determination.

(3) The Commissioner shall not make a tax determination, including an amended tax determination, for a tax period at the expiry of 5 (five) years after such tax period, unless—

- (a) a registered person wilfully neglects or commits a fraud in filing a return; does not file the return for any tax period; or claims a refund fraudulently for such tax period; or
- (b) a registered person, in order to evade payment of taxes, conceals any information, or distorts it, or issues tax invoices with false information or intentionally commits these, or other, offences; or
- (c) an amended tax determination is required to give effect to a decision of a Court, the Appellate Tribunal or the Value Added Tax Authority.

(4) Nothing in this section shall, in the following cases, prevent a Commissioner from imposing and collecting any interest or monetary penalty, namely:—

- (a) in the case of computation from the original date for payment of the payable VAT, supplementary duty or turnover tax; or
- (b) in the case of computation from the date on which a refund was paid to a person and a tax determination arises in order to make adjustments of such refunded money because such person was paid such refund to which he was not entitled.

74. False declaration by the recipient of a supply.—(1) If a supplier mistakenly treats a taxable supply as an exempted or a zero-rated one as a result of a false declaration with an intent to cheat by the recipient of such supply, the Commissioner may, after giving such recipient an opportunity of being heard, make a tax determination against such recipient of such supply for payment of the payable VAT in respect

The Value Added Tax and Supplementary Duty Act, 2012

of such supply, including any payable interest or monetary penalty arising out of the late payment of the VAT, and such tax determination shall be treated as a determination of VAT payable by such recipient, whether registered or not.

(2) The Commissioner shall serve on the recipient of a supply a notice of tax determination which shall, in addition to other necessary matters, contain the following information, namely:—

- (a) the reason for such tax determination;
- (b) the amount of VAT payable as a result of such tax determination;
- (c) the date on which such VAT shall be payable; and
- (d) the time and place of filing appeal against such tax determination.

(3) Nothing in sub-section (1) shall prevent a Commissioner from recovering the payable VAT, interest or monetary penalty in relation to such supply from a supplier, and from recovering a portion of the payable amount from the supplier and the other portion from the recipient.

(4) If a supplier pays to the Commissioner, as a result of any fraudulence or a false statement made by a recipient of a supply, an amount of VAT, interest, or monetary penalty for such supply, he may recover the amount so paid from the recipient of such supply.

75. False statement by supplier.—(1) Where a person who is not registered makes a supply of a goods to the recipient of a supply and issues a false document purporting to be a tax invoice, which makes such supply appear like a taxable supply, such supply shall be treated as a taxable supply, and if such person is registered, the applicable rate would be the rate that would have been applicable to such supply:

Provided that if a higher rate is shown on, or is understood from, the documents, such higher rate shall be applicable.

(2) The Commissioner shall, after giving such person an opportunity of being heard, treat such person as a registered person and make a tax determination treating such supply as a taxable supply.

76. Grant of tax benefit or its negation.—(1) If a person takes or expects to take, through any scheme, by misusing any of the provisions of this Act, a tax benefit, whose sole or principal purpose is to take such tax benefit, the Commissioner may, after giving such taxpayer an opportunity of being heard, in specified cases and manners, pass such reasonable order for assessing the accuracy, determination, negation or

The Value Added Tax and Supplementary Duty Act, 2012

curtailment of such benefit and fix the responsibility of the beneficiary as if the particular proposal was not accepted or not made effective.

(2) For the purposes of this section, "Scheme" includes a course of action and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied and whether or not legally enforceable.

77. Admissibility of tax determination notice.—(1) Every original or attested copy of a notice of tax determination shall be so admissible in a proceeding as a conclusive proof that the determination has been duly made and, except in proceedings in relation to tax determination, that the amount and all particulars of the determination are correct.

(2) No tax determination made or executed may be quashed or deemed to be void or voidable for not being made or executed in the prescribed forms.

(3) No tax determination shall be affected or impaired for any omission, or mistakes or defects therein, if it is in conformity with this Act, and the name of person assessed or on whom tax may be imposed is cited in such notice according to common understanding.

CHAPTER TWELVE VALUE ADDED TAX AUTHORITY

78. Value Added Tax Authority and officers thereof.—(1) For the purposes of this Act, there shall be an authority to be called the Value Added Tax Authority, which shall be constituted with the Board, one or more Value Added Tax Offices thereunder and the officers specified below, namely—

- (a) Chief Commissioner, Value Added Tax;
- (b) Commissioner, Value Added Tax;
- (c) Commissioner (Appeal), Value Added Tax;
- (d) Commissioner (Large Taxpayers' Unit), Value Added Tax;
- (e) Director- General, Central Intelligence Cell;
- (f) Director- General, Audit, Intelligence and Investigation Directorate, Value Added Tax;
- (g) Additional Commissioner or Additional Director- General, Value Added Tax;
- (h) Joint Commissioner or Director, Value Added Tax;
- (i) Deputy Commissioner or Deputy- Director, Value Added Tax;

The Value Added Tax and Supplementary Duty Act, 2012

- (j) Assistant Commissioner or Assistant Director, Value Added Tax;
- (k) Revenue Officer, Value Added Tax;
- (l) Assistant Revenue Officer, Value Added Tax; and
- (m) any other officer appointed by the Board.

(2) The Board may, by a general or special order published in the official Gazette, appoint the VAT officers, determine their local jurisdiction and specify the responsibilities, duties, powers and functions of such officers under this Act or any rule made thereunder.

(3) The Board may, by a general or special order published in the official Gazette, constitute, either for the whole or for any specific area of the country or for any specific class of taxpayers, one or more large taxpayers' units and appoint necessary numbers of officers thereto, and prescribe the rules of functions of such units.

79. Duties and responsibilities of the VAT Authority.—(1) The Board shall, under the provisions of this Act, carry out all the functions, including the policy making functions, and discharge all the duties and exercise all the powers of the VAT Authority.

(2) The VAT officials shall perform, while remaining under the control, surveillance and supervision of the Board, all or any of the functions, discharge all or any of the responsibilities and duties, and exercise all or any of the powers described below, namely:—

- (a) tax collection and activities relating to keeping accounts thereof;
- (b) application of the provisions of this Act and the rules made thereunder and administrative functions ; and
- (c) any other function or duties and responsibilities assigned to them by the Board to carry out the purposes of this Act.

(3) Subject to such limitations and conditions as may be determined by the Board, by a general or special order, the VAT officers shall, under the provisions of this Act or the rules made thereunder, perform all—

- (a) such functions, discharge such responsibilities and duties, and exercise such powers as may be bestowed upon them; and an official junior in rank and status shall perform all such functions, discharge all such responsibilities and duties, and exercise all such powers as may be given by an officer senior in rank and status to such official; and
- (b) such functions, discharge such responsibilities and duties, and exercise such powers through an arrangement

The Value Added Tax and Supplementary Duty Act, 2012

whereunder a senior officer may perform all the duties and responsibilities of a junior officer.

80. Power of the Board to amend or alter an order or decision of a VAT officer.—The Board may, *suo moto*, call for, in such manner and within such time as may be prescribed, the records of any proceeding or any order passed or any decision taken by any VAT officer for scrutinizing the accuracy of such proceeding, order or decision, and may, after such scrutiny, pass such reasonable order as it deems fit:

Provided that the rights or liabilities of any person determined under this Act shall not be affected by such order.

81. Delegation of Power.—(1) The Board may, by a notification in the official Gazette and subject to such limitations or conditions as may be specified in such notification, delegate to any VAT officer, by name and designation, any responsibility, duty or power of a Commissioner under this Act or the rules made thereunder.

(2) Unless the Board otherwise directs, a Commissioner or a Director- General may pass an order giving any VAT officer subordinate to him the authority to exercise any or all of his powers in all or any part of the jurisdiction of such Commissioner or Director- General.

82. Assistance to VAT officers.—(1) All members of the Police, Border Guards Bangladesh, Bangladesh Coast Guards, and Ansars; and the authorities of all Union Parishads, Upazila Parishads, Municipalities, Zila Parishads, City Corporations; and all the government officers, including the officers administering and controlling the functions relating to Excise, Customs, Income Tax and Narcotics; and all bank officers shall render assistance to the VAT officers in discharging their duties under this Act or any the rules made thereunder.

(2) A VAT officer not below the rank of an Assistant Commissioner may, for the purposes of taking assistance, request any member, authority, officer or any other person specified in sub-section (1) to provide any information, including the accounts of any movable or immovable property of any person, statements of bank accounts or other documents of any person, and such member, authority, or officer, if so requested, shall remain obligated to furnish such summoned information.

83. Power to enter and search by VAT officers.—(1) To carry out the purposes of this Act or the rules made thereunder, a VAT officer not below the rank of an Assistant Commissioner, having been authorized by

The Value Added Tax and Supplementary Duty Act, 2012

a Commissioner, may, in the prescribed manner, exercise any of the following powers, namely:—

- (a) to enter into any place or premises of any economic activity or into any house, transport, etc. and make search therein; and
- (b) to inspect any economic activity and examine its records, files, documents and accounts.

(2) If the place specified in sub-section (1) be a place of abode of any person, it shall require such officer to serve, in the prescribed manner, a notice upon the owner or the person-in-charge or supervisor of such place and no such entry shall be made during the period from sunset to sunrise.

(3) If any person contravenes any provision of this Act or any rule made thereunder, a VAT officer of the rank of an Assistant Commissioner and above may, in the prescribed manner, request the concerned bank authority to freeze the bank account of such person.

84. Seizure of goods and disposal thereof.—(1) If any person makes any supply or renders any service in violation of any provision of this Act or any rule made thereunder, the Commissioner may, in the prescribed manner, seize and dispose of such goods or the goods related to such service.

(2) During the pendency of a proceeding, the Commissioner may, in such manner and on such terms as may be prescribed, order for ad-interim release of any goods seized under sub-section (1) to the owner of such goods or his representative.

85. Imposition of monetary penalty for non-compliances or irregularities.—(1) The Commissioner may impose a monetary penalty specified in column (3) for the non-compliances or irregularities specified in column (2) of the following TABLE, namely:—

TABLE

Sl. No.	Non-compliances or irregularities	Amount of monetary penalty
(1)	(2)	(3)
(a)	Non-compliance or irregularity for not applying for registration or enlistment within the prescribed time-limit;	10 (ten) thousand taka only
(b)	Non-compliance or irregularity for not displaying the registration or turnover tax certificate in a visible place;	10 (ten) thousand taka only
(c)	Non-compliance or irregularity for not	10 (ten) thousand taka

The Value Added Tax and Supplementary Duty Act, 2012

Sl. No.	Non-compliances or irregularities	Amount of monetary penalty
(1)	(2)	(3)
	informing the Commissioner of the change in the information of the economic activity;	only
(d)	Non-compliance or irregularity for not applying for cancellation of registration or enlistment within the prescribed time-limit	10 (ten) thousand taka only
(e)	Non-compliance or irregularity for not abiding by the provision of section 9(5);	10 (ten) thousand taka only
(f)	Non-compliance or irregularity for not filing the VAT or turnover tax return within the prescribed time period;	10 (ten) thousand taka only
(g)	Non-compliance or irregularity for not making inclusion of the output tax in the return;	Twice the amount of output tax not included;
(h)	Irregularities for taking more input tax credit than entitlement in the return;	Twice the amount of input tax irregularly taken;
(i)	Irregularity relating to making an increase of a decreasing adjustment or making a decrease of an increasing adjustment in the return;	Twice the amount of increased decreasing adjustment or twice the amount of decreased increasing adjustment;
(j)	Non-compliance or irregularity for not issuing tax invoice, credit note, debit note, combined tax invoice and withholding certificate;	10 (ten) thousand taka only
(k)	Non-compliance or irregularity for not keeping records in the prescribed manner;	10 (ten) thousand taka only
(l)	Non-compliance or irregularity for not furnishing fixed security;	10 (ten) thousand taka only
(m)	Irregularity for willingly evading or attempting to evade assessment and payment of taxes;	Twice the amount of taxes evaded.

(2) Save and except any offence or any non-compliances or irregularities specified in sub-section (1), if any person fails to do anything he is required to do under any of the provisions of this Act or the rules made thereunder, or does anything he is not permitted to do, then the Commissioner may, considering the gravity and frequency of commission of such act of non-compliances or irregularities, impose, in

The Value Added Tax and Supplementary Duty Act, 2012

the prescribed manner and of a prescribed amount of monetary penalty on such person.

(3) Nothing in this Act shall prevent a Commissioner, if there are elements of crime and of non-compliance or irregularity in any incident, from lodging a criminal case for the element of such crime and initiating a proceeding for the element of such non-compliance or irregularity.

(4) Every Commissioner shall, before imposing a monetary penalty under this section, issue a notice to give the concerned person an opportunity of being heard.

(5) The monetary penalty imposed shall be payable as additional to VAT, supplementary duty, turnover tax, interest, or fine.

86. Monetary limits of the VAT officers in initiating a proceeding for adjudication.—(1) To carry out the purposes of this Act or the rules made thereunder, or for the imposition and collection of taxes,—

- (a) in relation to imports and exports, the Customs Officers shall initiate proceedings in accordance with the provisions of the Customs Act;
- (b) in relation to supply of goods or services, the VAT officers shall, subject to the monetary powers specified in the following TABLE, initiate proceedings under the provisions of this Act, namely:—

TABLE

SL. No.	Officer	Powers
(1)	(2)	(3)
(a)	Commissioner or Chief Commissioner	value of the goods or services exceeding Tk. 20 (twenty) lakh only
(b)	Additional Commissioner	value of the goods or services not exceeding Tk. 20 (twenty) lakh only
(c)	Joint Commissioner	value of the goods or services not exceeding Tk. 15 (fifteen) lakh only
(d)	Deputy Commissioner	value of the goods or services not exceeding Tk. 10 (ten) lakh only
(e)	Assistant Commissioner	value of the goods or services not exceeding Tk. 5 (five) lakh only
(f)	Revenue Officer	value of the goods or services not exceeding Tk. 2 (two) lakh only:

The Value Added Tax and Supplementary Duty Act, 2012

Provided that the proceedings, which do not have any financial involvement, that is, proceedings of irregularities, shall be initiated and disposed of by specified VAT officials.

(2) Every VAT official shall, in each proceeding taken up under the provisions of this section, provide the concerned person an opportunity of being heard through service of a notice upon such person.

87. Power to summons.—(1) An officer of VAT, not below the rank of a Revenue Officer, may, requiring to take any action under the provisions of this Act or the rules made thereunder, issue summons to any person for standing as a witness or presenting any document.

(2) The person so summoned under sub-section (1), shall be under compulsion to appear as per the direction of the VAT officer either in person or through an authorized representative:

Provided that no summons shall be issued to a person, who is exempted from appearing in person, under sections 132 and 133 of the Code of Civil Procedure.

88. Powers and functions of the Customs Officers.—(1) Every Customs Officer, in applying, and giving effect to, any provision of this Act or any rule made thereunder, shall have the following responsibilities, namely—

(a) to collect VAT imposed on taxable imports; and

(b) to collect supplementary duty payable on imports of goods subject to supplementary duty.

(2) A Customs Officer shall be entitled to exercise the powers conferred upon him by the Customs Act in such a manner as if the provisions of imposition of Customs duty on an importable goods under the Customs Act is applicable to the VAT and supplementary duty imposed under this Act.

89. Confidentiality.—Subject to the provisions of the Right to Information Act, 2009 (Act No. 20 of 2009), all the information, received from any taxpayer in giving effect to the provisions of this Act, shall be treated as confidential.

CHAPTER THIRTEEN AUDIT AND INVESTIGATION

90. Audit and investigation of a taxpayer's economic activities.—

(1) The Commissioner or the Director- General may, to prevent tax

The Value Added Tax and Supplementary Duty Act, 2012

evasion, conduct, under the provisions of this Act or the rules made thereunder, audit and investigation into all affairs of a taxpayer's economic activities.

(2) The Board shall, in order to conduct such audit and investigation activities, frame rules and compile and publish an Audit Manual.

(3) An Officer of VAT, duly empowered by the Commissioner or the Director- General, shall, after conducting the audit and the investigation in accordance with the procedure laid down in the Audit Manual, submit an audit report to the Commissioner or the Director-General.

(4) If, in the audit report referred to under sub-section (3), any tax liability for the audited tax period of any taxpayer is identified, the Commissioner or the Director- General shall fix the tax liability, and shall, after determining the interest payable on such unpaid tax, refer the matter to the concerned officer for initiating next proceedings for the collection of such unpaid tax.

91. Powers of the VAT officers.—(1) An Officer of VAT, duly authorized in this respect, and for authorized purposes, may, through service of a notice, ask for the following information from any person, namely:—

- (a) necessary information relating to any person for conducting the audit and the investigation; or
- (b) any document or evidence under the custody of any person.

(2) Such an authorised VAT officer shall have the following powers, namely:—

- (a) to make copies of any record;
- (b) to seize any record in the prescribed manner;
- (c) to seal any record or goods; and
- (d) to take steps, in the prescribed cases and manner, to freeze bank accounts of any person.

(3) In relation to the seizure of any record, document or a goods, those shall be returned, under such procedure as may be prescribed, to such person from whom they were seized.

(4) If a person lawfully claims any special right or privilege over any document or any other evidence, which the authorised VAT officer requires to seize or examine, the documents over which such special right or privilege is claimed shall be put into an envelope which shall then be sealed jointly and sent to the Board to determine whether the documents in question carry special right and are privileged or not.

The Value Added Tax and Supplementary Duty Act, 2012

(5) No entry shall be made or search conducted, under any provision of this Chapter, into any premises of a diplomatic, consular or other mission of a foreign country or international organisation which enjoys immunity from such entry or search under international law.

Explanation: In this section, “authorised purpose” means—

- (a) collection of information for fixing the tax liability of any person;
- (b) collection of information for collecting tax from any person;
- (c) identification of tax evasion; or
- (d) ensuring compliance with the provisions of this Act.

92. Supervised supply, observation and surveillance.—(1) Where a taxpayer does not comply with the provisions of this Act with an intention of evading payment of supplementary duty, an Officer of VAT may, under orders from the Commissioner observe, and keep surveillance on, any supervised supply, in a prescribed manner, at any place relating to his economic activities subject to supplementary duty to determine the actual tax liability of such taxpayer.

(2) Such officer of VAT shall, specifying all information necessary to determine the tax liability of such taxpayer, submit a report to the Commissioner.

(3) The Commissioner may, after giving the taxpayer an opportunity of being heard, determine the actual tax liability of such taxpayer on the basis of the report submitted under sub-section (2) and any other information gathered under this Act or the rules made thereunder.

93. Multiple departmental audits.—No registered or enlisted person shall be included for audit twice for the same tax period unless the Commissioner has reliable information or other genuine cause to believe that such person has, submitting wrong or false information or fake documents, fraudulently evaded tax in relation to such audited tax period.

94. Special audit.—(1) The Board may, subject to such limitations and such terms as may be prescribed, appoint an auditor to hold any audit, including a special audit, of records and accounts of any registered or enlisted person.

(2) The auditor so appointed under sub-section (1) shall, for the purpose of this section, be treated to be an officer of VAT.

**CHAPTER FOURTEEN
RECOVERY OF ARREAR TAX**

95. Recovery of arrear tax.—(1) Where any amount of VAT, supplementary duty, turnover tax, interest monetary penalty or fine remains payable by a defaulting taxpayer, the Commissioner shall initiate a proceeding for the recovery of such arrear taxes from such defaulter.

(2) An arrear tax shall become payable, if—

- (a) the amount of arrear taxes is shown as payable on a return and remains unpaid;
- (b) the amount of arrear taxes is shown in the notice of tax determination served on the taxpayer and the defaulting taxpayer fails to pay it by the last date specified in such notice; or
- (c) an amount of arrear tax becomes payable on the disposal of any proceeding under this Act.

(3) The Commissioner shall, if an arrear tax becomes payable by a defaulting taxpayer under sub-section (2), send a notice to such defaulting taxpayer for the recovery of such taxes.

(4) In a proceeding relating to the recovery of arrear taxes, and in relation to fixing the liability and the amount of such taxes, such notice shall be treated to be the conclusive proof.

(5) The Commissioner shall, in matters of recovery of arrear taxes, take the following actions, namely:—

- (a) deduct, in the prescribed manner, the amount of arrear tax from the money the defaulting taxpayer may have under the control of any authority of Income Tax, Customs, VAT or Excise;
- (b) direct any person or associate or financial institution or bank holding any money of the defaulting taxpayer to pay the amount by such person or bank;
- (c) issue an order directing to stop the supply of any goods or any service from the business premises of the defaulting taxpayer;
- (d) lock the business identification number in the Bill of Entry processing system in the Custom House to stop clearance of imported goods of the defaulting taxpayer;
- (e) issue an order, in the prescribed manner, directing to freeze the bank accounts of the defaulting taxpayer;

The Value Added Tax and Supplementary Duty Act, 2012

- (f) issue an order directing to seal the business premises of the defaulting taxpayer or seal such business premises within the prescribed time and in the prescribed manner;
- (g) recover the arrear taxes by attaching and selling, in the prescribed manner, any of the defaulting taxpayer's immovable property and by seizing and selling any of his movable property; or
- (h) take a take a security deposit from a guarantor of the defaulting taxpayer in such manner and on such terms as may be prescribed.

(6) In relation to the recovery of arrear taxes by a Customs Commissioner, such arrear taxes shall be collected in the same way as Customs duty on imports is collected.

96. Power of VAT officer under the Code of Civil Procedure.—In relation to the recovery of money under the Code of Civil Procedure, an officer of VAT, duly empowered in this behalf and subject to the provisions of this Act, shall have the same powers as those of a Civil Court for the recovery of arrear taxes.

97. Change in jurisdiction for recovery of arrear tax.—Where a defaulting taxpayer resides in, or has an economic activity or a property within, the jurisdiction of any other Commissioner, the Commissioner may make a request to such other Commissioner to recover the arrear tax, and such Commissioner shall, on such request, recover the arrear tax in such a manner as if the tax were an arrear in his jurisdiction.

98. Disposal of money or security recovered.—(1) Where the amount, of money recovered or, of security furnished, is less than the arrear taxes, such amount of money or of security shall, in the prescribed manner, be disposed of in the following order, namely:—

- (a) first, to reduce the amount of payable interest;
- (b) secondly, to reduce the amount of monetary penalty or fine; and
- (c) thirdly, to reduce the amount of VAT, supplementary duty or turnover tax.

(2) Where the amount, of money recovered or, of security furnished, is more than the arrear taxes, the excess amount of money or of security, left after a disposal of such amount under sub-section (1), shall be given back to the defaulting taxpayer or the guarantor.

The Value Added Tax and Supplementary Duty Act, 2012

(3) The Commissioner shall, in such manner and within such time as may be prescribed, inform the defaulting taxpayer of the disposal of the amount, of money, or of security, under sub-section (1) and (2).

99. Government lien on the immovable property of the defaulting taxpayer and attachment thereof.—(1) If a defaulting taxpayer fails to pay an arrear tax by the due date, a preferential lien in favor of the Government shall be created on all the properties belonging to such defaulting taxpayer, and such lien shall continue to exist until the arrear tax is paid.

(2) The Commissioner shall, by serving a notice, inform the defaulting taxpayer of the creation of such lien, and if the defaulting taxpayer fails to pay the arrear tax within one month from the date of service of such notice, the Commissioner may, in the prescribed manner, recover the arrear tax by attaching and selling the immovable property of such defaulting taxpayer.

100. Seizure of goods, sale of such goods and disposal of the sale proceeds thereof.—(1) Where any goods is seized on-the-spot and without serving any notice for the recovery of arrear taxes, the Commissioner shall, as soon as possible, serve a notice of such seizure on—

- (a) the owner of the goods;
- (b) the person who had custody or control of the goods immediately before such seizure; or
- (c) any person claiming the seized goods:

Provided that no such notice shall be required to be served if no one claims the goods.

(2) Where any goods is seized under sub-section (1), the Commissioner may, on the following terms and conditions, return such goods to such person, namely:—

- (a) if a security deposit of money equal to the amount of arrear taxes for which the seizure has been made is furnished; or
- (b) if, by agreeing to pay, in instalments, an amount equal to the amount for which the seizure has been made, the first instalment thereof is paid.

(3) If the tax is not paid or a security deposit for the payment thereof is not furnished or the first instalment of the tax is not paid by the defaulting taxpayer even after agreeing to pay by such instalments, the Commissioner may, within such time and in such manner as may be prescribed, sell the seized goods.

The Value Added Tax and Supplementary Duty Act, 2012

(4) The sale proceeds of the seized goods shall be disposed of in the following manner, namely:—

- (a) first, by paying the cost of seizure, storage and sale of the goods;
- (b) secondly, by paying off the amount of money equal to the amount of arrear taxes for the recovery of which the goods were seized;
- (c) thirdly, by paying the taxes payable under any Law repealed by this Act; and
- (d) fourthly, by paying the balance, if any, back to the owner of the goods.

(5) Where a proceeding is pending before a Commissioner (Appeal) or an Appellate Tribunal or the Supreme Court against the tax determination on the basis of which the goods were seized for the recovery of the arrear taxes, the sale of the property of the defaulting taxpayer shall, except for the following cases, remain suspended, namely:—

- (a) goods subject to decay or perishable goods; and
- (b) any goods specified by the Commissioner.

101. Liabilities and obligations of the representative.—(1) The representative of the defaulting taxpayer shall also be responsible for all the duties and responsibilities devolved on such taxpayer for the recovery of arrear taxes.

(2) The amount recoverable from the representative towards the realisation of arrear taxes may extend to as much of the defaulting taxpayer's money and property as is held by, or is under the control of, such representative.

(3) The representative shall also be personally liable for the arrear taxes if, while such taxes remain unpaid, he—

- (a) withdraws, makes charges against or transfers the payable money received or accrued for the payment (of the arrear); or
- (b) withdraws any amount of money or fund under his possession but belonging to the defaulting taxpayer or gives it to some other person.

(4) Nothing in this section shall exempt a defaulting taxpayer from the duties and responsibilities enjoined upon him by this Act or the rules made thereunder if a representative as such fails to perform his duties.

The Value Added Tax and Supplementary Duty Act, 2012

(5) If there are two or more representatives of a defaulting taxpayer, the duties or obligations referred to in this section shall be vested upon all such representatives jointly and severally.

102. Responsibilities of receivers.—(1) The Commissioner may, for the recovery of arrear taxes, make a request to a receiver to pay such arrear taxes from the property of the defaulting taxpayer that has been taken in the possession of such receiver.

(2) The receiver, if so requested by the Commissioner under subsection (1), shall, in the prescribed manner, pay the arrear taxes from the sale proceeds of such property, and shall inform the Commissioner of the payment of such arrear taxes along with documentary evidence thereof.

Explanation: In this section, “receiver” means a person appointed or empowered by any law or Court.

103. Liability of directors or entrepreneurs of any company or association of persons or of property development joint venture.—

(1) If a company or association of persons or property development joint venture fails to pay arrear taxes, and if the directors or representatives or entrepreneurs who were in charge of such company, or association of persons or property development joint venture, when such money fell in arrear, failed to show proper care, responsibility and skill, shall be liable, jointly and severally, to pay such arrear taxes till such time as may be prescribed.

(2) Every director or representative or entrepreneur so liable to pay the arrear taxes shall be entitled to a reimbursement from other directors or representatives or entrepreneurs.

(3) Without prejudice to the generality of functions rendered by such director or representative or agent or entrepreneur, the following activities shall be deemed to have been done by such company or association of person or property development joint venture, namely:—

- (a) carrying on of an economic activity or any part thereof;
- (b) any supply, import or acquisition in the course of an economic activity;
- (c) manufacture of goods or supply of services;
- (d) receipt of any issued notice;
- (e) filing of a return;
- (f) payment of taxes; or
- (g) providing information.

The Value Added Tax and Supplementary Duty Act, 2012

104. Continuity of partnerships or unincorporated associations.—If—

- (a) a partnership or other unincorporated association of persons is dissolved or otherwise ceases to exist because of the admission of a new partner or member or of retirement;
- (b) a new partnership or an unincorporated association of persons, consisting of the remaining members, comes into existence; and
- (c) the new partnership or unincorporated association of persons carries on the same economic activity as was carried on by the dissolved partnership or association,

the dissolved partnership or association and the new partnership or association shall, then, for the purposes of this Act, be deemed to be an inseparable partnership or association of persons.

105. Death or insolvency of a taxpayer.—If, after the death of a taxpayer or the declaration of a taxpayer as bankrupt, the economic activity of such taxpayer is carried on by any Trustee or Executor of property of such taxpayer, such Trustee or Executor shall, for the purposes of this Act, be treated as a taxpayer.

106. Payment of arrear tax by installments.—(1) The Commissioner may, within such time-limit, on such terms and in such manner as may be prescribed, give permission to a defaulting taxpayer to pay arrear taxes in installments, and may, for default in paying any installment, cancel such permission.

(2) The time- limit for the payment of arrear taxes by instalments granted under this section shall not be more than 12 (twelve) months.

CHAPTER FIFTEEN MAINTENANCE OF FORMS, NOTICES AND RECORDS

107. Keeping of records and accounts.—(1) Every taxpayer shall, in such form and manner as may be prescribed, keep, for a period of 5 (five) years, all accounts, documents and other records of his economic activities so as to facilitate assessment of his tax liability and other obligations.

(2) Without prejudice to the extent of coverage of sub-section (1), the records maintained and accounts kept shall include the following documents, namely:—

The Value Added Tax and Supplementary Duty Act, 2012

- (a) all statements of purchase of goods, services or immovable property, whether taxable or exempted from tax, and all tax invoices related thereto;
- (b) all statements of sale of goods, services or immovable property;
- (c) all tax invoices, credit notes, debit notes, and integrated tax invoices and withholding certificates issued and received by such person;
- (d) all customs documentation relating to imports and exports of goods by such person;
- (e) all records showing, at any particular time, the prices at which the person sells the products manufactured by him, the input-output coefficient for such products, and all records of, discounts offered by the manufacturer of such products or, of credits;
- (f) all records relating to the supply of services subject to supplementary duty or the manufacture of goods subject to supplementary duty and related documents;
- (g) all treasury challans (receipts) showing the deposit of tax imposed or, where payment was made in ways other than by treasury challans (receipts), appropriate documentary evidence in support of such payments;
- (h) all returns for every tax period; and
- (i) any other prescribed documents or records .

108. Authentication of forms, notices and documents.—For the purposes of this Act, the Board may determine the format of any form, notice, returns and other documents in such manner as it may think fit and proper.

109. Service of notices.—(1) For the purposes of this Act, where a summons or notice or decision or order or instruction is required to be served on a person, it shall be deemed to have been properly served on such person, if it is—

- (a) personally received by such person or his representative;
- (b) sent at his last known place of abode or business in Bangladesh;
- (c) sent by registered post to his last known address;
- (d) sent through an electronic means; or

The Value Added Tax and Supplementary Duty Act, 2012

(e) displayed in the notice board of the concerned VAT office, if not possible to be served in the manners specified in clause (a) to (d).

(2) No question as to the validity of a notice served under this Act or any rule made thereunder shall be raised after the compliance with (the requirements of) such notice, in full or in part.

110. Authenticity of documents.—(1) A notice or document, served under this Act or any rule made thereunder, or issued by any authorized VAT officer, shall be deemed to be sufficiently authenticated, if the signature, and name and designation of the concerned official is printed or stamped and the telephone or fax or mobile phone number or email address of such officer is mentioned therein, and an official file and issue number are printed or stamped or inserted on such notice or document.

(2) Any document made, issued, or executed under this Act or any rule made thereunder shall not be—

(a) deemed to be void or voidable for not being made or executed in prescribed forms; or

(b) deemed to affect its authenticity because of any mistake, defect, or omission therein;

if it is in conformity with the subject and context thereof.

CHAPTER SIXTEEN

OFFENCE, TRIAL AND PUNISHMENT

111. Offences relating to VAT registration certificate or turnover tax certificate and tax invoice, and punishment thereof.—Whoever dishonestly—

- (a) makes or uses a fake VAT registration certificate, turnover tax certificate or integrated tax invoice and withholding certificate bearing a forged or false business identification number; or
- (b) makes or uses a forged or false tax invoice, credit note, debit note, integrated tax invoice and withholding certificate;
- (c) evades payment of the payable tax otherwise; or
- (d) claims a tax refund without such person being entitled to such refund,

shall be punished with imprisonment for a term which may extend to one year, or with a fine equal to the amount of tax payable, or with both.

112. Offence and punishment relating to false or misleading statement or description.—Whoever dishonestly makes a false or misleading statement or description in any tax document submitted to any VAT officer shall be punished with imprisonment for a term which may extend to 6 (six) months, or with a fine equal to the amount of tax payable, or with both.

113. Offence and punishment for obstructions.—Whoever, with a mala fide intention, obstructs or attempts to obstruct any VAT officer in discharging his duties under this Act or any rule made there under shall be punished with imprisonment for a term which may extend to 6 (six) months, or with a fine which may be not less than 10 (ten) thousand taka and not more than 2 (two) lakh taka, or with both.

114. Investigation, trial and appeal of the offence.—(1) Notwithstanding anything contained in the Code of Criminal Procedure or in any other law for the time being in force, the offences shall be triable by a First Class Judicial Magistrate or Metropolitan Magistrate empowered under the Code of Criminal Procedure and may impose any amount of fine prescribed in this Act.

(2) The offences shall be bail able and non-cognizable.

(3) No such Judicial Magistrate or Metropolitan Magistrate shall take cognizance of an offence except through a complaint, in writing, made,

The Value Added Tax and Supplementary Duty Act, 2012

subject to the approval of the Commissioner, by an officer of VAT not below the rank of an Assistant Commissioner.

(4) The VAT officer shall, in such manner and within such time as may be prescribed, complete the investigation of any offence punishable under this Act.

(5) Such Judicial or Metropolitan Magistrate shall try the offences following the summary trial procedure laid down in the Code of Criminal Procedure, and the appeal, review and revision in respect of such offences shall be filed and disposed off in accordance with the provisions laid down in the Code of Criminal Procedure.

115. Additional Power of the Judicial Magistrate or the Metropolitan Magistrate.—For the purposes of this Act, the Judicial Magistrate or the Metropolitan Magistrate shall also have the power to freeze the bank accounts of a person committing the offence.

116. Offence committed by any company, association of persons or property development joint venture.—(1) If an offence is committed by any company or association of persons or property development joint venture, every director, partner, chief executive, manager, secretary, official, employee, representative or VAT Agent thereof having involvement with such offence shall be deemed to have committed such offence unless he proves that such offence was committed without his knowledge or he tried his best to prevent the commission of such offence.

(2) A company may be tried and punished in the same judicial proceeding which is lodged against such director, partner, chief executive, manager, secretary, official, employee, representative or VAT Agent of such company, but no imprisonment other than fine shall be imposable upon such company.

117. Abettor of offence.—Whoever abets or gives support or incites or excites a person in the commission of any offence, shall be deemed to have been an offender as a committer of such offence, and shall be punished similarly as such committer is punished.

118. Prior approval before filing a case.—Without the prior approval of the Commissioner, no case in respect of any offence shall be filed in any court.

119. Compoundability of the offences.—(1) The offences shall, in the prescribed manner, be compoundable.

The Value Added Tax and Supplementary Duty Act, 2012

(2) Every case before or after the prior approval of the Commissioner for filing thereof, is compromisable in such manner and on such terms as may be prescribed by the Board, but after filing such case, permission of the court shall be required to make such compromise.

120. Fine additional to the tax payable.—The fine imposed as punishment by a Judicial Magistrate or a Metropolitan Magistrate shall be in addition to VAT, supplementary tax, turnover tax or monetary penalty.

CHAPTER SEVENTEEN APPEALS AND REVISIONS

121. Appeal to Commissioner (Appeal).—(1) If any person or any VAT officer is aggrieved by a decision taken or order issued under this Act or the rules made there under by any Additional Commissioner or any VAT officer below the rank of an Additional Commissioner may, within 90 (ninety) days from the date of issue of such decision or order, lodge an appeal in the prescribed manner to the Commissioner (Appeal).

(2) Where a person other than a VAT officer prefers an appeal under sub-section (1), he shall, at the time of filing such appeal, pay ten percent of the tax specified in the impugned order or if no such tax is specified therein, ten percent of the monetary penalty imposed.

(3) The Commissioner (Appeal) shall, after giving an opportunity of proper hearing to the parties to the appeal in the prescribed manner, dispose of the appeal within a period of time not exceeding 1 (one) year.

(4) The Commissioner (Appeal) may uphold, change or set aside the impugned decision or order, or may pass such order as he thinks fit and proper:

Provided that he shall not, de novo, send the case on remand for reconsideration.

(5) In the interest of deciding an appeal, the Commissioner (Appeal) may, in the prescribed manner and within the prescribed time, make such further scrutiny or hold such further enquiry, collect such further information or make such further verification of the accuracy of the proceedings in respect of the impugned matter as may be necessary.

(6) Notwithstanding anything contained in this Act or the rules made there under, if the Commissioner (Appeal) fails to dispose off an appeal within the stipulated time, such appeal shall be deemed to have been granted by the Commissioner (Appeal).

The Value Added Tax and Supplementary Duty Act, 2012

122. Appeal to Appellate Tribunal.—(1) If any person or any VAT officer is aggrieved by a decision taken or order issued under this Act or any rule made there under by any Commissioner or Commissioner (Appeal) or Director-General or by any VAT officer holding the same rank may, within 90 (ninety) days from the date of service of such decision or order, prefer an appeal in the prescribed manner before the Appellate Tribunal.

(2) Where a person, other than a VAT officer, prefers an appeal under sub-section (1), he shall, at the time of filing such appeal, pay ten percent of the tax specified in the impugned order or, if no such tax is specified therein, ten percent of the monetary penalty imposed.

(3) The Appellate Tribunal, after hearing the parties to the appeal, may pass such order as it thinks fit and proper, including an interim order staying the collection of tax.

(4) Any interim order of the Appellate Tribunal staying collection of tax shall cease to have effect on the day after the expiry of a period of 6 (six) months following the day on which it was passed unless the case is finally decided, or the interim order is withdrawn by the tribunal earlier.

(5) Notwithstanding anything contained in this Act or the rules made there under, if the Appellate Tribunal fails to dispose of the appeal within a period of 2 (two) years, the appeal shall be deemed to have been granted by the Appellate Tribunal.

(6) The functional procedures of the Appellate Tribunal and of its branches shall be determined by the Tribunal itself.

(7) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Penal Code (Act XLV of 1860) and the Appellate Tribunal shall be deemed to be a Civil Court under the Code of Civil Procedure.

123. Burden of proof in a proceeding.—(1) In the case of proving the points at issue of any proceeding before the Commissioner (Appeal) or the Appellate Tribunal, the affidavit submitted by the Commissioner in the prescribed manner shall be treated as a conclusive proof thereof unless the taxpayer may prove otherwise rebutting the contents of such affidavit.

(2) A copy of the notice issued by the Commissioner and other concerned documents shall be attached with such affidavit.

124. Revision by the High Court Division.—(1) Any person or any VAT officer not below the rank of a Commissioner or a Director-General, aggrieved by an order of the Board or of the Appellate Tribunal,

The Value Added Tax and Supplementary Duty Act, 2012

may prefer a revision petition before the High Court Division of the Supreme Court on questions of law of such order.

(2) Notwithstanding anything contained in any other law for the time being in force, the provisions of the Code of Civil Procedure shall, as far as possible, apply to the matters of such revision.

(3) In relation to submission of a revision application before the High Court Division under sub-section (1), the provisions of Section 5 of the Limitation Act, 1908, shall apply.

(4) In relation to submission of a revision application before the High Court Division, under sub-section (1), by a person other than an officer of VAT, such person shall, at the time of filing such revision application, pay 10 (ten) percent of the payable tax or of the monetary penalty specified in the impugned order.

125. Alternative dispute resolution.—(1) Notwithstanding anything contained in any other provision of this Act, a taxpayer may, in the prescribed manner, on the prescribed terms and within the prescribed time, apply to a facilitator, selected by him from the prescribed panel, to have a dispute resolved through alternative dispute resolution process; and the facilitator may, in the prescribed manner, on the prescribed terms and within the prescribed time, take steps to resolve such dispute, on the basis of consensus, through alternative means.

(2) The Board may, by a notification in the official Gazette, designate, from time to time, one or more of the VAT Commissionerates for processing the applications of alternative dispute resolution.

(3) If a dispute is resolved on the basis of consensus through alternative dispute resolution, no objection in respect of such consensus shall be raised in any court, and the disputes which cannot be resolved on such consensus through alternative dispute resolution process, may again be taken up for proceeding under the provisions of this Act.

(4) If a dispute or any part thereof could not be resolved through alternative dispute resolution process, the time spent for such resolution shall not be included in calculating the time for filing an appeal.

Explanation: In this section, "dispute" means a dispute arising out of the application of any provision of this Act or any rule made there under, but does not include an offence or a dispute involving a question of law.

CHAPTER EIGHTEEN MISCELLANEOUS

The Value Added Tax and Supplementary Duty Act, 2012

126. Tax exemption by the Government.—(1) The Government may, by a notification in the official Gazette, exempt, the whole or a part of the taxes imposable under this Act, if a need arises to take immediate action to face a situation of national importance, for a specified period till the next Finance Act takes effect, but if the exemption given under this sub-section is not included in the next Finance Act, it shall automatically become ineffective.

(2) In relation to an international assistance and loan agreement, if any provision is included in such agreement for the exemption of any tax, in part or in full, on an import or a supply under such agreement, the Government may, by a notification in the official Gazette, exempt such tax or a part thereof imposable under this Act, and

- (a) in relation to import: the import shall be exempted and such exemption shall be made effective; and
- (b) in relation to supply: the exemption shall be made effective by giving refund under section 71 without exempting such supply or the person to whom such supply is made.

127. Imposition of interest on payable tax.—(1) If a person fails to pay a tax payable to the Commissioner on or before the due date of payment, he shall be liable to pay an interest at a simple rate of two percent per month on the amount of payable tax, from the next day after the date the payment becomes due to the date the payment is made.

(2) The Commissioner shall recover the interest from such person in the same manner as taxes are recovered from him.

(3) If a person pays an interest and an amount to which the interest relates is found not to have been payable, the interest paid on such amount shall be refundable to such person.

(4) Interest shall be payable in additional to any monetary penalty or fine.

128. Online performance of functions, filing of return and payment of tax, etc.—Any function under this Act may, subject to the provisions of The Information and Communications Technology Act, 2006 (Act No. 39 of 2006), be performed online or through an electronic means within such time, on such terms and in such manner as may be prescribed.

129. Bar to the lodgment of suits in the Court.—No proceeding other than the proceeding or judicial proceeding under this Act or any rule made there under shall lie to any court against an order passed or decision made or action taken (tax determination, tax imposition, imposition of monetary penalty, imposition of interest, any audit, enquiry

The Value Added Tax and Supplementary Duty Act, 2012

or investigation or other similar matters for amendment or cancellation of tax recovery) by the Board or by a Commissioner.

130. Appointment of VAT Consultant.—(1) A person from among the persons having license to represent a taxpayer in any proceeding or to render advice to such taxpayer, may be appointed as a VAT Consultant.

(2) For the purposes of sub-section (1), the Board may, upon an application made in the prescribed manner and on the prescribed terms by any person desiring to act as a VAT Consultant, issue to such person a licence in the prescribed manner and on the prescribed terms.

131. Correction of clerical mistakes, etc.—A VAT officer may rectify any clerical or mathematical mistake in anything done under this Act or any rule made there under.

132. Certified copy of documents.—The Commissioner may, upon an application made by a taxpayer, issue, on such terms and in such manner as may be prescribed, a certified copy of the following documents, namely:—

- (a) any document or paper submitted by the taxpayer to the VAT officer;
- (b) any document submitted to any VAT officer as a proof of withholding of tax by any withholding entity; or
- (c) any other document specified by the Board.

133. Issuance of VAT clearance certificate.—(1) A taxpayer may, on the prescribed terms and in the prescribed manner, make an application to the Commissioner for a VAT clearance certificate.

(2) The Commissioner may, in the prescribed manner, issue a VAT clearance certificate to such applicant if he is satisfied that—

- (a) no tax is in arrear with, or payable by, such taxpayer; or
- (b) a security deposit is furnished by the taxpayer for the payment of the tax.

134. Acts to be done through a private organization.—The Board may, in the prescribed manner and on the prescribed terms, get one or more of the following acts done by any private organization at competitive prices, namely:—

- (a) to make entries and process any information, including the preliminary information provided in the return;
- (b) to prepare a list of all the persons to whom business identification numbers have been issued; or
- (c) to perform any other act prescribed by the Board.

The Value Added Tax and Supplementary Duty Act, 2012

135. Power to make rules.—The Board may, for the purposes of this Act and subject to its provisions, by a notification in the official Gazette, make rules.

136. Publication of translated English text.—(1) After the introduction of this Act, the Government may, if it is considered necessary, publish, by a notification in the official Gazette, an authentic English Text of this Act translated from the Bengali Text.

(2) In case of a conflict between the English and the Bengali texts, the Bengali text shall prevail.

137. Repeal and savings.—(1) On the coming into force of this Act, the Value Added Tax Act, 1991 (Act No. XXII of 1991), shall stand repealed.

(2) Upon such repeal of the said Act,—

- (a) anything done or any action taken under the said Act shall, so far as they are consistent, be deemed to have been done and taken under this Act;
- (b) all rules made, orders passed, notifications published, and notices issued under the said Act shall, so far as they are consistent with the provisions of this Act, continue to be in force until they are repealed or amended, and shall be deemed to have been made, passed, published and issued under this Act;
- (c) all taxes or fees or other dues payable under or imposed by the said Act, if in arrear before this Act comes into force, shall be recovered by the said Act, and any matter, if unresolved, shall be resolved under the said Act as if the said Act has not been repealed.

138. Tax accounting during transition.—(1) Notwithstanding the provisions contained in section 33, the value added tax imposed on a taxable supply shall be payable on the day of introduction of this Act, if—

- (a) a supply has been or is made after the day of introduction; and
- (b) a tax invoice for a supply was issued or the value of the supply was made, or both the actions were completed before the day of introduction:

Provided that no value added tax would be payable if such person has already paid value added tax on the supply under the Value Added Tax Act, 1991, and included that value added tax in a return submitted to the Commissioner under that Act.

The Value Added Tax and Supplementary Duty Act, 2012

(2) Each part of a progressive or periodic supply made under subsection (1) shall be, separately, subject to Value Added Tax and such supplies shall be treated as separate supplies.

139. Agreements entered into after the introduction of this Act.—Where a contract is concluded after the introduction of this Act and the contract does not include a provision relating to value added tax and supplementary duty—

- (a) such contract price shall be deemed to include the value added tax and supplementary duty (if any) payable on the supply; and
- (b) the supplier under the contract shall be required to pay the value added tax and supplementary duty (if any) imposed on supplies made under the contract, whether or not the supplier include those taxes in the price for such supplies under such contract.

The Value Added Tax and Supplementary Duty Act, 2012

FIRST SCHEDULE

(see section 26)

Exempted Supplies or Imports

First Part

(1) In relation to manufacture or production of any goods mentioned in the second schedule of the Narcotic Drugs Control Act, 1990 (Act XX of 1990).

(2) The supplies and imports mentioned below shall be exempted, namely:—

Item No.	Description
<i>Basic necessities</i>	
1.	any supply or import of prescribed basic food items for human consumption.
2.	any supply or import of prescribed life-saving drugs.
3.	A supply of the transportation services by taxis, buses, mini-buses, or ferries, but other than the following— (a) supply of transportation services provided through air-conditioned vehicles; or (b) a supply of a chartered tour of a kind ordinarily provided to tourists or other visitors.
4.	A supply of the following services relating to social welfare activities, if the services are provided by a government entity or an approved charitable institutions (Trust or Wakf): (a) Public Health and medical services; (b) Education and training; or (c) Child care activities and residential care facilities for the aged, indigent, infirm, or disabled persons who need permanent care.
<i>Agriculture, horticulture, pisciculture and veterinaries</i>	
5.	A supply of unprocessed agricultural, horticultural, or piscicultural products if the supplier is the producer of the goods.
6.	A supply of goods or services to be used as inputs to agriculture, horticulture, or pisciculture, as prescribed by the Board.
7.	A supply of land to be used for agriculture, horticulture or pisciculture.

The Value Added Tax and Supplementary Duty Act, 2012

Item No.	Description
8.	A supply of veterinary Services prescribed by the Board.
<i>Immoveable property</i>	
9.	A sale of vacant land.
10.	A lease, licence, hire or other forms of supply of the right to occupy and reside in residential premises. ,
11.	Where an immoveable property relates to a residential premise, the first sale of a new such premise or its sale other than a sale, within two years, of such property after its first use as a residential premise.
<i>Special situations</i>	
12.	A supply of goods used only in cases of supplies of exempted supplies by a registered person or if the goods is a passenger vehicle, where such person pays input tax, but is not entitled to tax credits, the supply of such goods.
<i>Non-commercial activities of approved charitable institutions</i>	
13.	A supply made by an approved charitable institution, if— (a) the supply is of a prescribed kind; or (b) the supply relates to any specified religious, charitable, or other non-profit activities.
<i>Culture</i>	
14.	(a) A prescribed supply of cultural services made on a non-profit basis; (b) A supply of newspapers.
<i>Intermediation</i>	
15.	A supply of financial services, except for the amount to the extent that a specific fee is claimed, or a charge made, for the service.

(3) For the purposes of item 3 of the table—

- (a) “bus” means a vehicle used for the transport of more than 40 (forty) persons, including the driver; and
- (b) “mini-bus” means a vehicle used for the transport of not less than 15 (fifteen), but not more than 40 (forty), persons, including the driver.

(4) For the purposes of item 15 of the table, “financial services” means—

The Value Added Tax and Supplementary Duty Act, 2012

- (a) the deposit of money for loans, credits, credit guarantees by the donors and management thereof, including the management of loans, credits or credit guarantees;
- (b) financial transactions, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and true factoring;
- (c) all transactions relating to financial derivatives, options to acquire financial instruments, and similar arrangements, but only including futures or forward contracts reached under a specifically defined market or where both the parties concerned with such transactions do so independently and on the basis of equality after protecting their own respective interests, if—
 - (i) the contract does not provide for the delivery of a commodity; or
 - (ii) the contract provides for the delivery of a commodity and the supply of the commodity is an exempt supply; or
 - (iii) the contract provides for the delivery of money;
- (d) transactions relating to shares, stocks, bonds, and other securities, but not including custody services;
- (e) the provision or transfer of ownership of an interest in a scheme whereby provision is made for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund or preservation fund; and
- (f) the provision or transfer of ownership of a life insurance contract or the supply of re-insurance in respect of any such contract:

Provided that such supplies shall not include a supply of the services of arranging for, or facilitating of, any of the supplied services.

The Value Added Tax and Supplementary Duty Act, 2012

Second Part

(1) The following imports shall be tax exempted, namely:–

Item No.	Description
1.	The import of any exempted or zero-rated goods.
2.	The import of goods received as unconditional donations in favour of an approved charitable organisation or the State and exempted from taxes by the Government by a notification. Explanation: “Approved Charitable Organisation” means an organisation specified under rules.
3.	The import of a goods that was exported and, later, brought back to Bangladesh by any person without such goods having been subjected to any process of manufacture or adaptation and without a permanent change of ownership; but if, at the time when the goods was exported,– (a) it was under a zero-rated supply: or (b) it was supplied before the introduction of this Act.
4.	The import of goods shipped or brought to Bangladesh for trans-shipment or for sending such goods to any other country.
5.	The import of goods made available free of charge by a foreign government or an international organisation approved by the Board with a view to assisting the economic development of Bangladesh.
6.	The import of goods for the provision of immediate relief to disaster-affected people, as approved by the Government.

The Value Added Tax and Supplementary Duty Act, 2012

SECOND SCHEDULE

(see section 55)

Goods and Services subject to Supplementary Duty

(1) In respect of the goods and services mentioned, respectively, in the second and third columns of the TABLES in the first and the second part of this schedule, the rate of supplementary duty or the specific amount of supplementary duty as shown against each in the fourth column of the TABLES, shall apply.

(2) The H.S. Codes and Description of goods in this schedule are like those in the Bangladesh Customs Tariff under the Customs Act.

First Part

Goods subject to supplementary duty

Heading No.	H.S. Code	Description of goods	Rate or amount of supplementary duty (%)
(1)	(2)	(3)	(4)
21.06	2106.90.10	any item used in the preparation of soft drinks, other than those with a mixture of perfumed substances, containing alcohol exceeding alcoholic strength 0.5% by volume	350
22.02	2202.10.00	soft drinks	100
	2202.10.90	non-alcoholic beer	100
22.03	2203.00.00	Beer made from malt	250
22.04	All H.S. Codes	Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09	350
22.05	All H.S. Codes	Vermouth and other wine of fresh grapes	350
22.06	2206.00.00	Other fermented beverages (for example: cider, parry,);	350
22.08	All H.S. Codes	Un-denatured ethyl alcohol of an alcoholic strength by volume of less than 80% volume, spirits, liqueurs and other spirituous beverages	350
24.01	All H.S. Codes	Un-manufactured tobacco, tobacco refuse	60
24.02	2402.10.00	Cigars, cheroots and cigarillos, containing tobacco	350
	2402.20.00	Cigarettes containing tobacco	350

The Value Added Tax and Supplementary Duty Act, 2012

Headin g No.	H.S. Code	Description of goods	Rate or amount of supplementary duty (%)
	2402.90.00	Bidi or others made by hand or non-mechanically	100
24.03	All H.S. Codes	Other manufactured tobacco and manufactured tobacco substitutes; “homogenised” or “reconstituted” tobacco extracts and essences	100
25.15	2515.11.00	Marble and travertine (apparent specific of 2.5 or more), crude or roughly cut	20
	2515.12.00	Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	20
	2515.20.00	Ecaussine and other calcareous monumental or building stone; alabaster	20
25.16	2516.11.00	Granite (crude or roughly cut)	20
	2516.12.00	Granite, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular or square shape	20
25.23	2523.21.00	Portland cement: white, whether or not artificially coloured	20
	2523.29.00	Other Portland cement	20
27.10	2710.12.39	other light oil and preparations: others	20
	2710.12.50	other medium oils and preparations	20
	2710.12.69	gas oil: others	20
	2710.19.19	fuel oil: others	20
	2710.19.33	partly refined petroleum including topped crudes	20
	2710.19.34	grease (mineral)	20
	2710.19.39	other heavy oils and preparations: : (except trasformer oil and heavy normal paraffin)	20
27.11	2711.21.00	natural gas: gaseous	100
33.03	3303.00.00	Perfumes and toilet waters	20
33.04	All H.S. Codes	Beauty or makeup preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations	20
33.05	All H.S. Codes	Preparations for use on the hair	60

The Value Added Tax and Supplementary Duty Act, 2012

Headin g No.	H.S. Code	Description of goods	Rate or amount of supplementary duty (%)
33.07	All H.S. Codes	Pre-shave, shaving or aftershave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorisers, (whether or not perfumed or having disinfectant properties).	20
48.13	All H.S. Codes	Cigarette paper, whether or not cut to size or in the form of booklets or tubes	60
68.02	All H.S. Codes	Granite, marble, travertine, alabaster and other stone	60
69.04	All H.S. Codes	Ceramic building bricks, flooring blocks, support or filler tiles and the like	20
69.07	All H.S. Codes	Unglazed ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing	45
69.08	All H.S. Codes	Glazed ceramic flags and paving hearth and wall tiles; glazed ceramic mosaic cubes whether or not on a backing	45
84.15	All H.S. Codes (except 8415.10.10 8415.81.10 8415.82.10 8415.83.10 8415.90.10 8415.90.90)	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity is not separately regulated and parts thereof (except capital Machinery)	60
	8415.90.10	Parts (imported by air-conditioner manufacturing units)	20
	8415.90.90	parts (imported by importers other than by a manufacturer of air conditioner)	45

The Value Added Tax and Supplementary Duty Act, 2012

Headin g No.	H.S. Code	Description of goods	Rate or amount of supplementary duty (%)
84.18	All H.S. Codes (except 8418.61.10 8418.69.10 8418.99.00)	Refrigerators, freezers and other similar articles, heat pumps, refrigerating furniture	30
85.07	8507.10.00	Leadacid battery and electric accumulators	20
	8507.20.90	Other leadacid accumulators	20
87.03	Respective H.S. Codes	Motor cars and other motor vehicles including station wagons.	
		1) Motorized three-wheelers and auto-rickshaws	20
		2) Three-wheelers and auto-rickshaws in CBU with four-stroke engine	20
		3) Motorcars including station wagons in CBU (except ambulances)	
		a) Cylinder capacity not exceeding 1000 cc	30
		b) Cylinder capacity exceeding 1000 cc but not exceeding 1500 cc (except microbus)	45
		c) Cylinder capacity exceeding 1500 cc but not exceeding 2000 cc (except microbus)	100
		d) Cylinder capacity exceeding 2000 cc but not exceeding 2750 cc	250
		e) Cylinder capacity exceeding 2750 cc but not exceeding 4000 cc	350
		f) Cylinder capacity exceeding 4000 cc	500
		g) Microbus with Cylinder capacity not exceeding 1800 cc	30
		h) Microbus with Cylinder capacity exceeding 1800 cc but not exceeding 2000 cc	60
		4) Motorcars including motor vehicles, station wagons and jeeps in CKD (except four-stroke CNG auto-rickshaws and three-wheelers)	

The Value Added Tax and Supplementary Duty Act, 2012

Headin g No.	H.S. Code	Description of goods	Rate or amount of supplementary duty (%)
		a) Motorcars in CKD condition (up to 2000 cc)	30
		b) Others in CKD	45
87.04		Double cabin pickup in CBU condition with minimum four doors	
	8704.21.13 8704.31.13	cylinder capacity from 1001 cc to 1500 cc	30
	8704.21.14 8704.31.14	cylinder capacity from 1501 cc to 2000 cc	60
	8704.21.15 8704.31.15	cylinder capacity from 2001 cc to 2750 cc	100
	8704.21.16 8704.31.16	cylinder capacity from 2751 cc to 4000 cc	350
	8704.21.17 8704.31.17	cylinder capacity from 4001 cc to above	500
87.06	8706.00.31	two stroke auto-rickshaw or chassis fitted with engine of three wheeler	20
	8706.00.32	four stroke auto-rickshaw or chassis with engine of three wheelers	20
87.11	8711.10.11 8711.10.91 8711.20.11 8711.20.91	Motorcycles in CBU condition with four-stroke engine	45
	8711.10.21 8711.10.92 8711.20.21 8711.20.92	Motorcycles in CKD condition with four-stroke engine	30
	8711.10.19 8711.10.29 8711.10.99 8711.20.19 8711.20.29 8711.20.99	Motorcycle with two-stroke engines (whether CKD or CBU)	250
93.02 93.07	All H.S Codes	Revolver and pistol or other arms ammunitions (except the match weapon and sports ammunitions imported by shooting federation) or sword or knife or spear or other similar things	100

The Value Added Tax and Supplementary Duty Act, 2012

Second Part

Services subject to supplementary duty:

Heading No.	Service Code	Description of services	Rate (%) or amount of supplementary duty
(1)	(2)	(3)	(4)
S001	S001.00	Hotel and Restaurant:	
	S001.10	Hotel :	10
	S001.20	Restaurant: If alcoholic beverages are supplied along with accommodation, food and beverages, or any kind of “floor show” is organised (even if for only one day in a year)	10
S012	S012.20	SIM Card Supplier: In case of cellular phone (Mobile/Fixed Wireless), supply of SIM (Subscriber’s Identity Module) card or RUIM (Removable User Identification Module) card or similar other cards with Microchip, or the usage of Code Division Multiple Access (CDMA) each time or any other method other than aforementioned cards for the same purpose	Taka 600 for every SIM