

METROPOLITAN CHAMBER OF COMMERCE & INDUSTRY

Practical Guidance to Implement New VAT Laws, Act and Rules

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1 | What is Value Added Tax (VAT)?

- VAT is a tax on value addition
- **Value addition means** enhancement of the value of a product or service resulting from its alteration in the form, location or availability, excluding the cost of bought out material or services (Inputs).
- An understanding of Business Operating Procedure, Accounting and VAT laws is a prerequisite to implement VAT in a cost effective manner.

3 | VAT Net (Scope of VAT)

Items	Existing	New
Context	73 Sections, 43 Rules	139 Sections, 119 Rules
Scope of VAT	Import, Manufacturing, Trading and Services	Import, Manufacturing, Trading Services, supply of immovable property , Lease, Grant, License, Permit, right, facility and etc
Exemption	The Board by special order and the Government by Gazette notification. The First Schedule for the Goods exempted from VAT and The Second Schedule for the Services exempted from VAT. At both import and supply stage.	The Government by Gazette notification to face a situation of national interest for a specific period till the next Finance Act takes effect. The First Schedule for exempted supplies and imports.

3 | VAT Net (Scope of VAT)

“Economic Activity” U/S 2 (6)

Any activity carried:

-On regularly or continuously

-For making supply of any good, 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 good, service or property made under any lease, licence, 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;

Thus, the VAT Net is largely supply of Goods, Services and Immovable Property

3 | VAT Net (Scope of VAT)

“Goods” U/S 2(60) means, other than share or stock or security or money, all kinds of tangible movable property;

“Money” U/S 2(5) means any existing legal tender of Bangladesh or of any other country, and also includes the following instruments, namely—

(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;

“Supply of goods” U/S 2(61) means—

(a) the transfer of the right, as an owner, to sell, exchange, or otherwise dispose of, a good, including a sale under hire purchase agreement; or

(b) giving the right to use the good on lease, rent or otherwise, and it also includes the supply of goods under finance lease;

“Service” U/S 2(99) means any service but does not include any good, immovable property and money;

3 | VAT Net (Scope of VAT)

"Electronic Service" U/S 2(18) 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;

"Supply of Service" U/S 2(100) means such a supply as is not a supply of good, money, or immovable property, which, without prejudice to the generality, shall include the following, namely--

- (a) a grant, assignment, termination, or conferment of a right;
- (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 licence, permit, certificate, concession, authorisation, or a similar right;

3 | VAT Net (Scope of VAT)

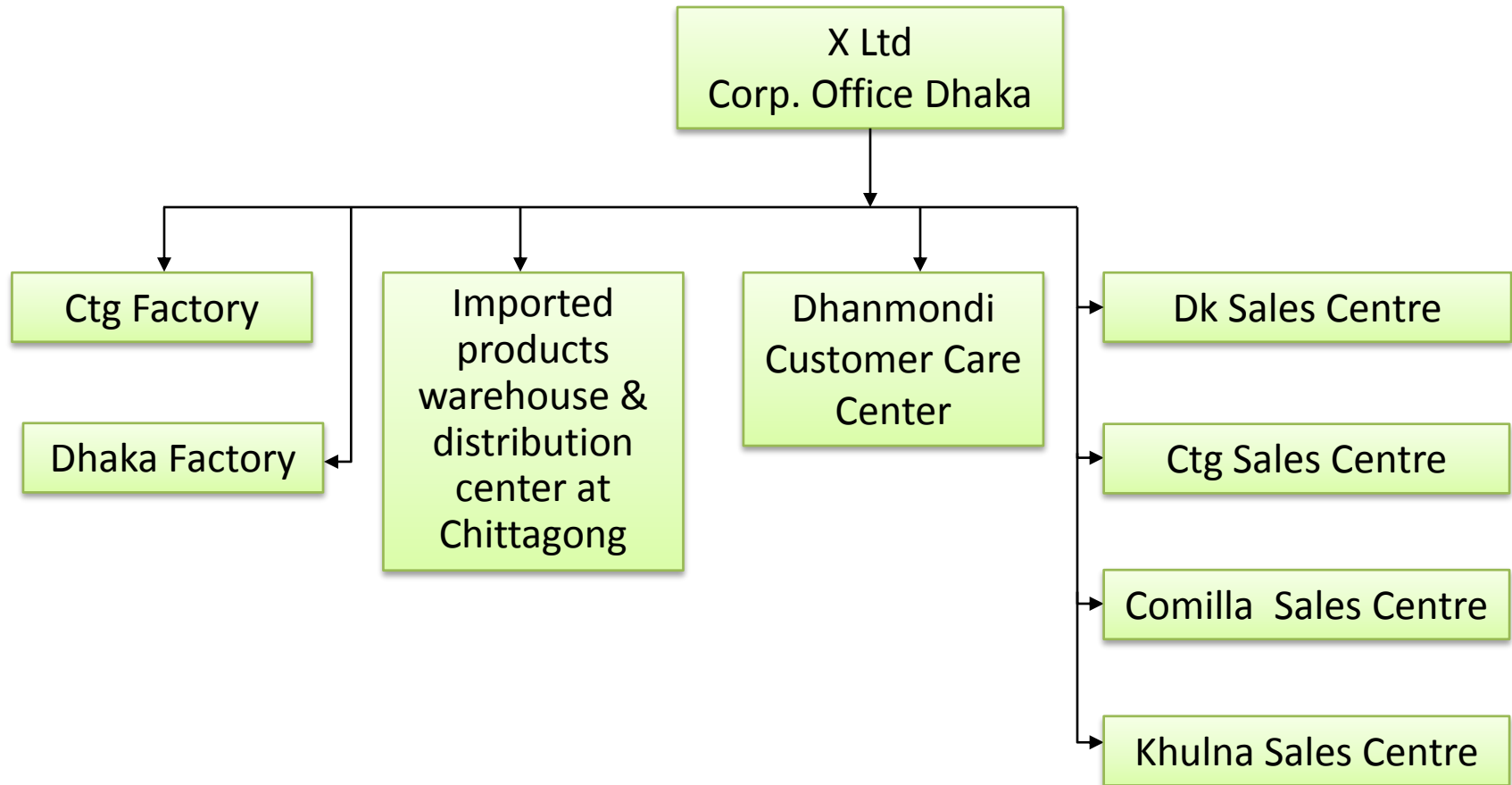
"Immovable Property" U/S 2(101) means the subject-matter of a supply of any immovable property whether the subject-matter is a property or a combination of the rights attached to it, and it shall also include land or any building situated on that land or any structure constructed on or attached to it;

"Supply of Immovable Property" U/S 2(102) 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 licence 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;

4 | Registration

4.01 A business organogram of a soap manufacturer with selling and distribution activities :



4 | Registration

4.02 The key changes

Items	Existing Laws	New Laws
Central / Unit registration	General provision Unit Registration. Central Registration under discretion	General provision Central Registration. Unit Registration is an option
Inter Factory RMC Transfer	Treated VATable supply	Not treated VATable supply
Inter Sales Unit FG Transfer	Treated VATable supply	Not treated VATable supply
FG transfer from Fty to Sales Unit	Treated VATable supply	Not treated VATable supply
Disclosure of the List of Registered person	No option	To be disclosed in NBR Website
VAT registration irrespective of turnover	The products and services listed in SRO # 183 Law/2012/641 MUSHUK, dated 7th July 2012.	The person who manufactures goods subject to supplementary duty or the person who provides service subject to supplementary duty.
Registration Threshold	Turnover above Tk 80 lakh	Turnover above Tk. 80 lakh*
Turnover Threshold	Upto Tk 80 Lakh	Above Tk. 30 Lakh upto Tk. 80 Lakh*

4 | Registration

4.02 The key changes

** Excluding*

- a) an exempted supply
- b) the sale of a capital asset
- c) a sale of an organization of economic activities or any portion thereof; or
- d) a supply made as a consequence of permanent closing down of an economic activity

Those who are with turnover below Tk 30 lakh will not require to pay either package VAT or TOT. This has eliminated unwanted harassment upon small trader.

5 | Tax at import stage

5.01 The key changes

Items	Existing Laws	New Laws
Import by TOT Registered Person	Not allowed	Allowed
Advance Trade VAT	Only for commercial Importer @ 4%	Not provided
Advance Tax	No	For all import @ 3%

5.02 Manner of VAT collection on taxable imports U/S 27

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.

5.03 Determination of value of taxable Imports U/S 28

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.

5 | Tax at import stage

5.03 Determination of value of taxable Imports U/S 28

Computation of CD, VAT and other Taxes at Import Stage

Particulars	Calculation	Taka
Invoice value in US\$		100
Exchange rate		80
Invoice value in BDT		8,000
Adjustment for Insurance etc	1%	80
Assessment Value		8,080
Customs Duty	@ 25% of Tk. 8,080	2,020
Regulatory Duty	@ 5% of Tk. 8,080	404
Supplementary Duty	@ 20% of TK. (8,080+2,020+404) 10,504	2,101
Value Added Tax	@15% of Tk. (10,504+2,101) 12,605	1,891
Advance Income Tax	@ 5 % of Tk. 8,080	404
Advance Trade VAT (Existing)	@4% of (12,605 + 26.67% of 12,605)	639
Advance Tax (New)	@ 3 % of Tk. 8,080	242
PSI (Optional)	1% of Tk. 8,000	80

Base of ATV : 4% of {AV + CD+SD+RD+ 26.67% of (AV+CD+SD+RD)}

5 | Tax at import stage

5.04 **Determination of value of re-imported goods U/S 29**

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.

5.05 **Imports for exports. U/S 30**

A good brought for export, without being released for consumption inside Bangladesh, **shall not be liable to any tax.**

5.06 **Payment of advance tax on import. U/S 31**

- ✓ 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 at the rate of 3 (three) percent of the value of the taxable import
- ✓ The Importer may claim, in the return of the related tax period, a decreasing adjustment equal to the amount paid as advance tax.

6 | VAT at Supply Stage

6.01 The key changes

Items	Existing Laws	New Laws
Taxable Values	Consideration receivable, Base determined by Govt. (for trader), Uniform price (Imp. & Mng.) Unique value, Retail price, Total receipt, conditional discounted price and Tariff Value.	Transaction Value Tax inclusive value x 100/115
Time of VAT Payment	In case of product and some services , before delivery, in advance through current account, in case of other services, subsequent to service at the of submission of return.	In all cases within 15 days of next must at the time of submission of return
Price declaration and Input output co-efficient	Mandatory	Only input output co-efficient

6 | VAT at Supply Stage

6.01 The key changes

Items	Existing Laws	New Laws
Mode of payment	Treasury Challan	Bank Cheque, Credit/Debit Card and online banking
Tax payment in case of disaster	No instalment	Can be paid in instalment as per approval of commissioner
Instalment option for the payment of arrear tax	6 months	12 months
Lay -by agreement	Not specified	Specified
Refund of tax to foreign tourist	No provision	Refundable

"lay-by agreement" U/S 2(36) 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 good is conferred after payment of the money of the last installment is made; and
- (c) ownership of the good is transferred on conferment of possession;

6 | VAT at Supply Stage

6.02 Determination of value of the taxable supply U/S 32

- 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.
- 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.
- Excepting the value of taxable supply of immovable property by the developer to the landowner, 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.
- Unless otherwise specified, the value of a taxable supply without a consideration shall be zero.

6 | VAT at Supply Stage

6.02 Determination of value of the taxable supply U/S 32

"**consideration**" U/S 2(59), means :

- a) - 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—

- 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;

6 | VAT at Supply Stage

6.02 Determination of value of the taxable supply U/S 32

"**tax fraction**" U/S 2 (29) means the amount of money arrived at in accordance with the following formula:

$$R/100 + R$$
, where R is the VAT rate specified in section 15(3);

"**fair market price**" U/S 2 (58) 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;

(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;

6 | VAT at Supply Stage

6.02 Determination of value of the taxable supply U/S 32

"associate U/S 2 (97) 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;

6 | VAT at Supply Stage

6.03 Time of payment of VAT on taxable supplies U/S 33

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.

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;
- (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.

In case of a progressive or periodic supply of any good (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.

6 | VAT at Supply Stage

6.04 **Progressive or periodic supplies— U/S 34**

(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.

6.05 **Single and multiple supplies U/S 35**

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.

6 | VAT at Supply Stage

6.05 Single and multiple supplies U/S 35

Tabia Ltd. is manufacturing and marketing a product subject to 10% SD. The unit price of the product including VAT and SD is Tk. 500 . Compute per unit VAT and SD of the product.

VAT Leviable price = SD Leviable price + SD

$$\begin{aligned}\text{VAT Leviable price} &= (500 - 500 \times \text{Tax Fraction}) \\ &= (500 - 500 \times 15/115) \\ &= (500 - 65.22) \\ &= 434.78\end{aligned}$$

SD Leviable price + SD = TK. 434.78

$$\begin{aligned}\text{SD} &= (\text{Tk. } 434.78 \times \text{Tax Fraction}) \\ &= (\text{Tk. } 434.78 \times 10/110) \\ &= \text{Tk. } 39.53\end{aligned}$$

7 | Assessment of Net Payable Tax

U/S 45

(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
- 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 sub-section (1) shall, in the prescribed manner, be paid by the taxpayer before filing the return for such tax period.

7 | Assessment of Net Payable Tax

U/S 45

"Increasing adjustment" *u/s 2(71)* 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;

"adjustment event" *u/s 2(87)* 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 good, in part or in full, to the supplier;

7 | Assessment of Net Payable Tax

U/S 45

"decreasing adjustment" *u/s 2(103)* 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 recalculation;
- 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;
- 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.

8 | Input Tax U/S 46

8.01 The key changes

Items	Existing Laws	New Laws
Opening of LC in case of more than one factory	Separate LC for each factory	Single LC covering all factories
Restriction on items of rebate	In case of land, labour, building, office equipment and vehicles, rebate is not applicable	Almost all purchases are rebatable
Partial rebate on certain inputs	80% of input tax on audit fee, electricity, gas, water and insurance is allowed	No restriction
Maximum time to take rebate	Within same tax period. Subject to approval, next two tax periods.	Within same tax period or subsequent two tax periods

8 | Input Tax U/S 46

8.02 Input Tax Credit

(1) 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.

8 | Input Tax U/S 46

8.02 Input Tax Credit

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

8 | Input Tax U/S 46

8.02 Input Tax Credit

(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 following 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.

8 | Input Tax

8.03 Partial input tax credit U/S 47

(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;

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.

8 | Input Tax

8.03 Partial input tax credit U/S 47

(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.

8 | Input Tax

8.04 Adjustments U/S 48

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;
- (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.

9 | Withholding Tax

9.01 The key changes

Item	Existing Laws	New Laws
Person to deduct tax	Government, Semi-government or Autonomous body NGO, Bank, Insurance and NBFIs, Limited Company Educational Institution	a government entity; a non-government organization approved by the NGO Affairs Bureau or the Directorate-General of Social Welfare a bank, insurance company or a similar financial institution a post-secondary educational institution a public limited company; or an establishment registered under a large taxpayers' unit (VAT)
Items subject to deduction	38 items of services	All supplies
Rate of deduction	Multiple rates	Not exceeding one third of the tax fraction of the supply

9 | Withholding Tax

9.02 Tax withheld at source and increasing adjustment by withholding entity U/S 49

(1) 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.

9 | Withholding Tax

9.03 **Decreasing adjustment by the supplier after the tax withheld at source** **U/S 50**

(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.

10 | Tax Determination by the Commissioner u/s 73

(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.

10 | Tax Determination by the Commissioner u/s 73

(2) 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 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.

10 | Tax Determination by the Commissioner u/s 73

(4) Nothing 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.

11 | Maintenance of Forms and Records

11.01 The key changes

Items	Existing Laws	New Laws
Purchase Register (M 16/M 6.1)	Includes quantity, value, VAT, SD for all	Only quantity for manufacturer
Sales registrar (M17/M6.2)	Includes quantity, value, VAT, SD: for all	Includes opening/purchase/sales quantity for trader
Submission of tax invoice (M11/M6.3)	Within 5 working days	Not needed. Invoice exceeding Tk. 2 lac to be uploaded in VAT Online system
Account current (M.18)	Key record of VAT	Not needed
Return (M.19/M9.1)	Purchase, sale, deduction at source, rebate, refund, duty draw back and VDS	Output VAT, input VAT, increasing adjustment, decreasing adjustment, net tax account, schedule of tax payment, carry forward of negative net tax and refund
Preservation of documents	6 years	5 years

11 | Maintenance of Forms and Records

11.02 Keeping of records and accounts U/S 107

(1) The records maintained and accounts kept shall include the following documents, namely:—

- (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 .

11 | Maintenance of Forms and Records

11.03 Tax accounting during transition U/S 138

(1) 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.

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

12 | Liability of Directors/Entrepreneurs u/s 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.

Thank
You