26 June 2019

A H M Mustafa Kamal, FCA, MP
Finance Minister
Finance Division, Ministry of Finance
Building # 7, Bangladesh Secretariat
Abdul Goni Road, Dhaka-1000, Bangladesh.

cc
Mosharraf Hossain Bhuiyan, Chairman, National Board of Revenue (NBR)
Mashiur Rahman, Economic Advisor to the Prime Minister of Bangladesh

Subject: Industry Representation on the Bangladesh Value Added Taxes and Supplementary Duties Act 2012 ("VAT Act 2012")

Dear Hon'ble Minister,

The AIC is an industry association comprised of leading internet and technology companies. AIC seeks to promote the understanding and resolution of Internet and ICT policy issues in the Asia region. Our members comprise Airbnb, Amazon, Apple, Booking.com, Expedia Group, Facebook, Google, Grab, LinkedIn, LINE, Rakuten, Twitter, and Yahoo (Oath).

Economic growth in Bangladesh has averaged more than 6% in the last decade and it is now progressing out of the low-income category. One of the pillars of this economic growth has been the robust policy-making of the Govt. of Bangladesh, which has been coupled with a spurt in consumer spending and business investment. With increased investment in - and greater accessibility of – information and communications technology (ICT) based services, traditional business models and processes are evolving as they develop new ways of leveraging ICT and reaching new markets.

Digitalization has become central to the business models of firms operating across economies in South Asia including Bangladesh. The digitalization occurring in all industries across the economy has contributed to the growth of the Bangladeshi economy by connecting small business, consumers, buyers, suppliers and all key actors in the global value chain. Digital multinational enterprises (MNEs) have helped achieve an increase in both sides of the supply-demand equilibrium.

With respect to the above, it is to be noted that, based on the information obtained from the public domain, it appears that the Government of Bangladesh intends to implement the **Value Added Taxes and Supplementary Duties Act 2012, ("VAT Act 2012")**, repealing the existing VAT Act 1991, and proposing an increase in Value Added Tax (VAT) rates for online and virtual businesses. The new VAT Act 2012 regime was planned to be operational by 2017 but was suspended. We understand that the proposed implementation of the new law is once again strongly contested due to certain ambiguities in the drafting of the law.

In this context, we offer our comments below on the proposed draft of the VAT Act 2012, urging the law's implementation date to be reconsidered in order to allow for consideration of industry views, and making room for industry consultation to take place at the soonest opportunity.

Taxation Policy: Some Concerns

There have been several public statements from the Govt. of Bangladesh that there will be significant amendments to the draft VAT Act 2012 that was originally proposed for implementation in 2017, in order to address the ambiguities, contradictions, and deficiencies in the said draft.

Principle-based Approach

In this regard, we would like to highlight the importance of a stable tax policy in attracting businesses, encouraging investments, and creating certainty for businesses in both application and administration of the law. It is equally imperative on the part of businesses to appropriately comply with all local laws, regulations and tax policies to ensure a sound and stable system. Thus, the proposed amendment should not contain major changes that may constitute an abrupt paradigm shift in the digitalizing economy.

We believe that any tax reform measure should:
- be broad based and non-discriminatory;
- avoid double taxation;
- respect existing tax treaties; and
- follow internationally agreed on norms and practices.

Any arbitrary tax rules or regulations that discourage innovation and investment or acts as a market entry barrier for digital enterprises, would serve to derail the momentum and economic growth that Bangladesh has witnessed in the recent past, which has been driven by such digital enterprises.

Timeline for Implementation

The new VAT Act, 2012 is proposed to be implemented by 1st July 2019, and it may be assumed that All Non-Residents (who do not carry economic activity from a fixed place in Bangladesh), as required by this Act, would have to achieve compliance with the law within this time frame, in

the absence of adequate transition clauses. The short timeline will likely result in difficulty in implementation of several provisions of the law, and the insufficient time for operational readiness may result in low compliance.

Further, for the law to be adapted to the needs of the digital economy, adequate consultation should be undertaken with all stakeholders who would be impacted by the law. Both domestic and foreign businesses could be directly or indirectly impacted by this legislation, the effects of which should be thoroughly considered. The final version of the law should incorporate their representations, suggestions and inputs.

In view of the above, we feel that a more consultative effort is necessary to ensure successful implementation and higher compliance rate from all businesses, including non-resident businesses. An extension of the consultative period would allow for deeper and more technical consultation with industry, so that industry can share global best practices, as well as share information on the role and value of digital platforms and services that encourage and support the needs of, and opportunities for, both Bangladeshi consumers and the economy at large.

In addition, sufficient time should also be provided to the affected taxpayers to make the relevant changes needed to their billing and accounting systems so that they are able to collect and account for the relevant VAT in the manner prescribed. It may be noted that in the APAC region, several countries (Australia, Malaysia, Singapore) have implemented or are in the process of implementing changes to their VAT or goods and services tax regimes. However, to the extent that this impacts overseas service providers in these countries, there has been significant emphasis placed on collaborative process with relevant taxpayers to obtain the necessary input and feedback. Furthermore, affected taxpayers have been allowed sufficient time to enable compliance with the revised rules.

Conclusion

Any new tax rule with long-term impact in a growing market like Bangladesh should align with global principles underlying sound and efficient taxation. Thus, we encourage the Gov't. of Bangladesh ensure that the VAT Act 2012 reflect provisions that are non-discriminatory, and follow international consensus-based tax rules, norms, and accepted principles. More specifically, non-resident businesses need to be encouraged through a market ecosystem where tax policy provides the needed certainty in both the law and the ability for businesses to appropriately implement any new legislation, to ensure the continued growth of the economy.

AIC commends the government's commitment towards the digital economy's enablement in Bangladesh and welcomes opportunities for meaningful dialogue and cooperation between the private sector and policy makers in order to ensure that the nation continues on its positive path towards continued investment, innovation and economic growth.

Should you have any questions or need clarification, please do not hesitate to contact us directly at **Secretariat@aicasia.org** or +65 8739 1490. Thank you for your time and consideration.

Sincerely,

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