



HOUSE OF REPRESENTATIVES

H. No. 7425

BY REPRESENTATIVES SALCEDA, GARIN (S.), SANTOS-RECTO, SAVELLANO, SUANSING (E.), NOGRALES (J.J.), HARESCO, SUNTAY, SINGSON-MEEHAN, VIOLAGO, DAGOOC, GATCHALIAN, FUENTEBELLA, ONG (J.), TAMBUNTING, ARENAS, PICHAY, VILLA, DEFENSOR (L.), ABU, ESPINO, SUANSING (H.), DALIPE, JIMENEZ, TUTOR, ECLEO, TAN (A.), LACSON AND BARBA, PER COMMITTEE REPORT NO. 426

AN ACT IMPOSING VALUE-ADDED TAX ON DIGITAL TRANSACTIONS IN THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTIONS 105, 108, 109, 110, 113, 114, AND 236 AND ADDING A NEW SECTION 105-A OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. Section 105 of the National Internal Revenue Code of 1997, as amended, is
2 hereby further amended to read as follows:

3 “SEC. 105. *Persons Liable.* – Any person who, in the course of trade or
4 business, sells, barter, exchanges, leases goods or properties, **INCLUDING THOSE**
5 **DIGITAL OR ELECTRONIC IN NATURE**, renders services, **INCLUDING**
6 **THOSE RENDERED ELECTRONICALLY**, and any person who imports goods
7 shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this
8 Code.

1 “The value-added tax is an indirect tax and the amount of tax may be shifted or
2 passed on to the buyer, transferee or lessee of the goods, properties or services. This
3 rule shall likewise apply to existing contracts of sale or lease of goods, properties, or
4 services at the time of the effectivity of Republic Act No. 7716.

5 “The phrase ‘in the course of trade or business’ means the regular conduct or
6 pursuit of a commercial or an economic activity, including transactions incidental
7 thereto, by any person regardless of whether or not the person engaged therein is a
8 nonstock, nonprofit private organization (irrespective of the disposition of its net
9 income and whether or not it sells exclusively to members or their guests), or
10 government entity.

11 “The rule of regularity, to the contrary notwithstanding, services as defined in
12 this Code rendered in the Philippines by nonresident foreign persons shall be
13 considered as being rendered in the course of trade or business.”

14 SEC. 2. A new Section designated as Section 105-A of the National Internal Revenue Code
15 of 1997, as amended, is hereby amended to read as follows:

16 **“SEC. 105-A. PERSONS LIABLE IN DIGITAL OR ELECTRONIC**
17 **TRANSACTIONS. – THE NONRESIDENT DIGITAL SERVICE PROVIDER IS**
18 **LIABLE FOR ASSESSING, COLLECTING, AND REMITTING THE VALUE-**
19 **ADDED TAX ON THE TRANSACTIONS THAT GO THROUGH ITS**
20 **PLATFORM.**

21 **“FOR THIS PURPOSE, THE TERM ‘DIGITAL SERVICE PROVIDER’**
22 **REFERS TO A SERVICE PROVIDER OF A DIGITAL SERVICE OR GOOD**
23 **TO A BUYER, THROUGH OPERATING AN ONLINE PLATFORM FOR**
24 **PURPOSES OF BUYING AND SELLING OF GOODS OR SERVICES OR BY**
25 **MAKING TRANSACTIONS FOR THE PROVISION OF DIGITAL SERVICES**

1 ON BEHALF OF ANY PERSON: *PROVIDED*, THAT THE DIGITAL
2 SERVICE PROVIDER MAY BE:

3 “(A) A THIRD PARTY, SUCH AS A SELLER OF GOODS AND
4 SERVICES WHO, THROUGH INFORMATION-BASED TECHNOLOGY OR
5 THE INTERNET, SELLS MULTIPLE PRODUCTS FOR ITS OWN
6 ACCOUNT, OR ONE WHO ACTS AS AN INTERMEDIARY BETWEEN A
7 SUPPLIER AND BUYER OF GOODS AND SERVICES, SUCH AS A
8 MERCHANDISER OR RETAILER, WHO COLLECTS OR RECEIVES
9 PAYMENT FOR SUCH GOODS AND SERVICES FROM A BUYER IN
10 BEHALF OF THE SUPPLIER AND RECEIVES A COMMISSION THEREON;

11 “(B) A PLATFORM PROVIDER FOR PROMOTION THAT USES THE
12 INTERNET TO DELIVER MARKETING MESSAGES TO ATTRACT
13 BUYERS;

14 “(C) A HOST OF ONLINE AUCTIONS CONDUCTED THROUGH
15 THE INTERNET, WHERE THE SELLER SELLS THE PRODUCT OR
16 SERVICE TO THE PERSON WHO OFFERS THE HIGHEST PRICE FOR IT;

17 “(D) A SUPPLIER OF DIGITAL SERVICES TO A BUYER IN
18 EXCHANGE FOR A REGULAR SUBSCRIPTION FEE OVER THE USAGE
19 OF THE SAID PRODUCT OR SERVICE; AND

20 “(E) A SUPPLIER OF GOODS OR ELECTRONIC AND ONLINE
21 SERVICES THAT CAN BE DELIVERED THROUGH AN INFORMATION
22 TECHNOLOGY INFRASTRUCTURE, SUCH AS THE INTERNET.

23 “FOR THIS PURPOSE, THE TERM ‘BUYER’ REFERS TO ANY
24 PERSON WHO RESIDES OR CONSUMES TAXABLE DIGITAL SERVICES
25 IN THE PHILIPPINES FROM A DIGITAL SERVICE PROVIDER EITHER

1 FOR PERSONAL CONSUMPTION, OR FOR TRADE OR BUSINESS
2 PURPOSES. THE TERM “DIGITAL SERVICE” REFERS TO ANY SERVICE
3 THAT IS DELIVERED OR SUBSCRIBED OVER THE INTERNET OR
4 OTHER ELECTRONIC NETWORK AND WHICH CANNOT BE OBTAINED
5 WITHOUT THE USE OF INFORMATION TECHNOLOGY AND WHERE
6 THE DELIVERY OF THE SERVICE MAY BE AUTOMATED. DIGITAL
7 SERVICES SHALL INCLUDE ONLINE LICENSING OF SOFTWARE,
8 UPDATES, AND ADD-ONS, WEBSITE FILTERS AND FIREWALLS;
9 MOBILE APPLICATIONS, VIDEO GAMES, AND ONLINE GAMES;
10 WEBCAST AND WEBINARS; PROVISION OF DIGITAL CONTENT SUCH
11 AS MUSIC, FILES, IMAGES, TEXT AND INFORMATION;
12 ADVERTISEMENT PLATFORM SUCH AS PROVISION OF ONLINE
13 ADVERTISING SPACE ON INTANGIBLE MEDIA PLATFORM; ONLINE
14 PLATFORM SUCH AS ELECTRONIC MARKETPLACES OR NETWORKS
15 FOR THE SALE, DISPLAY, AND COMPARISON OF PRICES OF TRADE
16 PRODUCTS OR SERVICES; SEARCH ENGINE SERVICES; SOCIAL
17 NETWORKS; DATABASE AND HOSTING SUCH AS WEBSITE HOSTING,
18 ONLINE DATA WAREHOUSING, FILE SHARING AND CLOUD STORAGE
19 SERVICES; INTERNET-BASED TELECOMMUNICATION; ONLINE
20 TRAINING SUCH AS PROVISION OF DISTANCE TEACHING,
21 E-LEARNING, ONLINE COURSES AND WEBINARS; ONLINE
22 NEWSPAPERS AND JOURNAL SUBSCRIPTION; AND PAYMENT
23 PROCESSING SERVICES.”

24 SEC. 3. Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby
25 further amended to read as follows:

1 “SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of*
2 *Properties.* –

3 “(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected, a
4 value-added tax equivalent to twelve percent (12%) of gross receipts derived from the
5 sale or exchange of services, including the use or lease of properties.

6 “The phrase ‘sale or exchange of services’ means the performance of all kinds
7 of services in the Philippines for others for a fee, remuneration or consideration,
8 **WHETHER RENDERED ELECTRONICALLY OR OTHERWISE**, including
9 those performed or rendered by construction and service contractors; stock, real estate,
10 commercial, customs and immigration brokers; lessors of property, whether personal
11 or real; warehousing services; lessors or distributors of cinematographic films; persons
12 engaged in milling, processing, manufacturing or repacking goods for others;
13 proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns,
14 resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other
15 eating places, including clubs and caterers; dealers in securities; lending investors;
16 transportation contractors on their transport of goods or cargoes, including persons
17 who transport goods or cargoes for hire and other domestic common carriers by land
18 relative to their transport of goods or cargoes; common carriers by air and sea relative
19 to their transport of passengers, goods or cargoes from one place in the Philippines to
20 another place in the Philippines; sales of electricity by generation companies,
21 transmission by any entity, and distribution companies, including electric
22 cooperatives; services of franchise grantees of electric utilities, telephone and
23 telegraph, radio and television broadcasting and all other franchise grantees except
24 those under Section 119 of this Code and non-life insurance companies (except their
25 crop insurances), including surety, fidelity, indemnity and bonding companies; and

1 similar services regardless of whether or not the performance thereof calls for the
2 exercise or use of the physical or mental faculties. The phrase ‘sale or exchange of
3 services’ shall likewise include:

4 “(1) The lease or the use of or the right or privilege to use any copyright,
5 patent, design or model, plan, secret formula or process, goodwill, trademark, trade
6 brand or other like property or right;

7 “(2) The lease or the use of, or the right to use of any industrial, commercial
8 or scientific equipment;

9 “(3) The supply of scientific, technical, industrial or commercial knowledge
10 or information;

11 “(4) The supply of any assistance that is ancillary and subsidiary to and is
12 furnished as a means of enabling the application or enjoyment of any such property, or
13 right as is mentioned in subparagraph (2) or any such knowledge or information as is
14 mentioned in subparagraph (3);

15 “(5) The supply of services by a nonresident person or the employee in
16 connection with the use of property or rights belonging to, or the installation or
17 operation of any brand, machinery or other apparatus purchased from such nonresident
18 person;

19 “(6) The supply of technical advice, assistance or services rendered in
20 connection with technical management or administration of any scientific, industrial or
21 commercial undertaking, venture, project or scheme;

22 **“(7) THE SUPPLY BY ANY PERSON, WHETHER RESIDENT OR**
23 **NONRESIDENT, OF DIGITAL SERVICES SUCH AS ONLINE**
24 **ADVERTISEMENT SERVICES, PROVISION FOR DIGITAL ADVERTISING**

1 **SPACE, AND ANY OTHER FACILITY OR SERVICE FOR THE PURPOSE**
2 **OF ONLINE ADVERTISEMENT;**

3 **“(8) THE SUPPLY BY ANY RESIDENT OR NONRESIDENT OF**
4 **DIGITAL SERVICES IN EXCHANGE FOR A REGULAR SUBSCRIPTION**
5 **FEE OVER THE USAGE OF THE SAID PRODUCT OR SERVICE;**

6 **“(9) THE SUPPLY OF ELECTRONIC AND ONLINE SERVICES**
7 **THAT CAN BE DELIVERED THROUGH AN INFORMATION**
8 **TECHNOLOGY INFRASTRUCTURE, SUCH AS THE INTERNET;**

9 **“[7] (10) The lease of motion picture films, films, tapes and discs; and**

10 **“[8] (11) The lease or the use of or the right to use radio, television, satellite**
11 **transmission and cable television time.”**

12 “Lease of properties shall be subject to the tax herein imposed irrespective of the
13 place where the contract of lease or licensing agreement was executed if the property
14 is leased or used in the Philippines.

15 “The term ‘gross receipts’ means the total amount of money or its equivalent
16 representing the contract price, compensation, service fee, rental or royalty, including
17 the amount charged for materials supplied with the services and deposits and advanced
18 payments actually or constructively received during the taxable quarter for the services
19 performed or to be performed for another person, excluding value-added tax.

20 “x x x.”

21 SEC. 4. Section 109 of the National Internal Revenue Code, as amended, is further
22 amended to read as follows:

23 “SEC. 109. *Exempt Transactions.* –

24 “(1) Subject to the provisions of [s]Subsection (2) hereof, the following transactions
25 shall be exempt from the value-added tax:

1 “(A) x x x

2 “(B) x x x

3 “(C) x x x

4 “(D) x x x

5 “(E) x x x

6 “(F) x x x

7 “(G) x x x

8 “(H) Educational services **INCLUDING ONLINE COURSES AND**
9 **WEBINARS** rendered by private educational institutions, duly accredited by the
10 Department of Education (DepEd), the Commission on Higher Education (CHED), the
11 Technical Education and Skills Development Authority (TESDA) and those rendered
12 by government educational institutions;

13 “(I) x x x

14 “(J) x x x

15 “(K) x x x

16 “(L) x x x

17 “(M) x x x

18 “(N) x x x

19 “(O) x x x

20 “(P) x x x

21 “(Q) x x x

22 “(R) Sale, importation, printing or publication of books and any newspaper,
23 magazine, review or bulletin which appears at regular intervals with fixed prices or
24 subscription and sale and which is not devoted principally to the publication of paid

1 advertisements[;], **INCLUDING THOSE SOLD ELECTRONICALLY OR**
2 **ONLINE.”**

3 “x x x.”

4 SEC. 5. Section 110 of the National Internal Revenue Code, as amended, is further
5 amended to read as follows:

6 “SEC. 110. *Tax Credits.* –

7 “(A) *Creditable Input Tax.* –

8 “(1) x x x

9 “(2) x x x

10 “*Provided,* That the input tax on goods purchased or imported in a calendar
11 month for use in trade or business for which deduction for depreciation is allowed
12 under this Code shall be spread evenly over the month of acquisition and the fifty-nine
13 (59) succeeding months if the aggregate acquisition cost for such goods, excluding the
14 VAT component thereof, exceeds One million pesos P[hP]1,000,000): *Provided,*
15 *however,* That if the estimated useful life of the capital good is less than five (5) years,
16 as used for depreciation purposes, then the input VAT shall be spread over such a
17 shorter period: *Provided, further,* That the amortization of the input VAT shall only be
18 allowed until December 31, 2021 after which taxpayers with unutilized input VAT on
19 capital goods purchased or imported shall be allowed to apply the same as scheduled
20 until fully utilized: *Provided, finally,* That in the case of purchase of services, lease or
21 use of properties, the input tax shall be creditable to the purchaser, lessee or licensee
22 upon payment of the compensation, rental, royalty or fee.

23 **“NOTWITHSTANDING THE FOREGOING, NO CREDITABLE INPUT**
24 **TAX SHALL BE CLAIMED BY NONRESIDENT DIGITAL SERVICE**
25 **PROVIDERS.**

1 “x x x.”

2 SEC. 6. Section 113 of the National Internal Revenue Code of 1997, as amended, is
3 further amended to read as follows:

4 “SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered*
5 *Persons.* –

6 “(A) *Invoicing Requirements.* – A VAT-registered person shall issue:

7 “(1) x x x

8 “(2) x x x

9 “(B) x x x

10 “(C) x x x

11 “(D) **NOTWITHSTANDING SUBSECTION (A), A VAT-REGISTERED**
12 **NONRESIDENT DIGITAL SERVICE PROVIDER MAY ISSUE AN**
13 **ELECTRONIC INVOICE OR RECEIPT, SUBJECT TO THE RULES AND**
14 **REGULATIONS TO BE PRESCRIBED BY THE SECRETARY OF FINANCE**
15 **UPON THE RECOMMENDATION OF THE COMMISSIONER OF**
16 **INTERNAL REVENUE.**

17 “[D] (E) x x x

18 “[E] (F) x x x.”

19 SEC. 7. Section 114 of the National Internal Revenue Code of 1997, as amended, is
20 further amended to read as follows:

21 “SEC. 114. *Return and Payment of Value-Added Tax.* –

22 “(A) *In General.* – Every person liable to pay the value-added tax imposed
23 under this Title shall file a quarterly return of the amount of his gross sales or receipts
24 within twenty-five (25) days following the close of each taxable quarter prescribed for
25 each taxpayer: *Provided, however,* That VAT-registered persons shall pay the value-

1 added tax on a monthly basis: *Provided, finally*, That beginning January 1, 2023, the
2 filing and payment required under the Subsection shall be done within twenty-five
3 (25) days following the close of each taxable quarter.

4 “Any person, whose registration has been cancelled in accordance with Section
5 236, shall file a return and pay the tax due thereon within twenty-five (25) days from
6 the date of cancellation of registration: *Provided*, That only one consolidated return
7 shall be filed by the taxpayer for his principal place of business or head office and all
8 branches.

9 “(B) *Where to File the Return and Pay the Tax.* – Except as the Commissioner
10 otherwise permits, the return shall be filed with and the tax paid to an authorized agent
11 bank, Revenue Collection Officer or duly authorized city or municipal Treasurer in the
12 Philippines located within the revenue district where the taxpayer is registered or
13 required to register.

14 “(C) *Withholding of Creditable Value-Added Tax.* – The Government or any of
15 its political subdivisions, instrumentalities or agencies, including government-owned
16 or -controlled corporations (GOCCs) shall, before making payment on account of
17 each purchase of goods and services which are subject to the value-added tax imposed
18 in Sections 106 and 108 of this Code, deduct and withhold the value-added tax
19 imposed in Sections 106 and 108 of this Code, deduct and withhold a final value-
20 added tax at the rate of five percent (5%) of the gross payment thereof: *Provided*, That
21 beginning January 1, 2021, the VAT withholding system under this Subsection shall
22 shift from final to a creditable system: *Provided, further*, That [the payment for lease
23 or use of properties or property rights to non-resident owners] **UNLESS THEY ARE**
24 **DULY-REGISTERED WITH THE BUREAU OF INTERNAL REVENUE UNDER**
25 **SECTION 236, PAYMENTS TO NONRESIDENTS FOR SERVICES RENDERED**

1 **IN THE PHILIPPINES UNDER SECTION 108** shall be subject to twelve percent
2 (12%) withholding tax at the time of payment: *Provided, finally,* That payments for
3 purchases of goods and services arising from projects funded by Official Development
4 Assistance (ODA) as defined under Republic Act No. 8182, otherwise known as the
5 ‘Official Development Assistance Act of 1996’, as amended, shall not be subject to
6 the final withholding tax system as imposed in this Subsection. For purposes of this
7 Section, the payor or person in control of the payment shall be considered as the
8 withholding agent.”

9 SEC. 8. Section 236 of the National Internal Revenue Code (NIRC) of 1997, as amended,
10 is hereby further amended to read as follows:

11 “SEC. 236. *Registration Requirements.* –

12 “(A) x x x

13 “(B) x x x

14 “(C) x x x

15 “(D) x x x

16 “(E) x x x

17 “(F) x x x

18 “(G) *Persons Required to Register for Value-Added Tax.* –

19 “(1) x x x

20 “(2) x x x

21 **“(3) ANY NONRESIDENT DIGITAL SERVICE PROVIDER WHO, IN THE**
22 **COURSE OF TRADE OR BUSINESS, ENGAGES IN THE SALE OR EXCHANGE**
23 **OF DIGITAL SERVICES DEFINED UNDER THIS ACT, SHALL BE LIABLE TO**
24 **REGISTER FOR VALUE-ADDED TAX IF:**

1 “(A) THE GROSS SALES OR RECEIPTS OF SUCH DIGITAL
2 SERVICE BUSINESS FOR THE PAST TWELVE (12) MONTHS BEFORE
3 THE DATE OF FILING OF VAT RETURN, OTHER THAN THOSE THAT
4 ARE EXEMPT UNDER SECTION 109(A) TO (BB), HAVE EXCEEDED
5 THREE MILLION PESOS (P3,000,000); OR

6 “(B) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
7 GROSS SALES OR RECEIPTS OF THE DIGITAL SERVICE BUSINESS FOR
8 THE NEXT TWELVE (12) MONTHS FROM THE DATE OF FILING OF VAT
9 RETURN, OTHER THAN THOSE THAT ARE EXEMPT UNDER SECTION
10 109(A) TO (BB), WILL EXCEED THREE MILLION PESOS (P3,000,000);

11 “*PROVIDED*, THAT THE BIR SHALL ESTABLISH A SIMPLIFIED
12 AUTOMATED REGISTRATION SYSTEM FOR NONRESIDENT DIGITAL
13 SERVICE PROVIDERS SUBJECT TO THE RULES AND REGULATIONS TO
14 BE PRESCRIBED BY THE SECRETARY OF FINANCE UPON THE
15 RECOMMENDATION OF THE COMMISSIONER OF INTERNAL
16 REVENUE.

17 “x x x.”

18 SEC. 9. *Implementing Rules and Regulations.* – To carry out the provisions of this
19 Act, the implementing rules and regulations (IRR) shall be promulgated by the Department of
20 Finance (DOF), upon the recommendation of the BIR, and in coordination with the
21 Department of Information and Communications Technology (DICT) not later than ninety
22 (90) days after the approval of this Act.

23 SEC. 10. *Transitory Clause.* – Nonresident digital service providers shall immediately
24 be subject to value-added tax under this Act after one hundred eighty (180) days from the
25 effectivity of this Act.

1 SEC. 11. *Separability Clause.* – Should any provision of this Act or any part thereof
2 be declared invalid, the other provisions, so far as they are separable from the invalid ones,
3 shall remain in force and effect.

4 SEC. 12. *Repealing Clause.* – All laws, decrees, orders, and issuances, or portions
5 thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended,
6 or modified accordingly.

7 SEC. 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
8 in the *Official Gazette* or in a newspaper of general circulation.

Approved,