

H. No. 4122
S. No. 2528

Republic of the Philippines
Congress of the Philippines
Metro Manila
Nineteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, two thousand twenty-four.

[REPUBLIC ACT NO. 12023]

AN ACT AMENDING SECTIONS 105, 108, 109, 110, 113, 114, 115, 128, 236, AND 288 AND ADDING NEW SECTIONS 108-A AND 108-B 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:

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

“SEC. 105. *Persons Liable.* – Any person who, in the course of trade or business, sells, barter, exchanges, leases goods or properties, renders services, including digital services, and any person who imports goods shall be subject to the value-added tax imposed in Sections 106 to 108 of this Code.

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

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

"The rule of regularity, to the contrary notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business: *Provided*, That digital services delivered by nonresident digital service providers shall be considered performed or rendered in the Philippines if the digital services are consumed in the Philippines."

SEC. 2. Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 108. *Value-added Tax on the Sale of Services, Including Digital Services, and the Use or Lease of Properties.* -

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

"The phrase 'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration, or consideration,

including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, rest houses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission by any entity, and distribution companies, including electric cooperatives; services of franchise grantees of electric utilities, telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code, and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; digital service providers; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:

"(1) x x x;

"(2) x x x;

"(3) x x x;

"(4) x x x;

"(5) x x x;

"(6) x x x;

“(7) The supply of digital services;

“(8) The lease of motion picture films, films, tapes, and discs; and

“(9) The lease or the use of or the right to use radio, television, satellite transmission, and cable television time.

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

“x x x.”

SEC. 3. A new section designated as Section 108-A under Chapter I, Title IV, of the National Internal Revenue Code of 1997, as amended, is hereby inserted to read as follows:

“SEC. 108-A. *Liability of Persons Providing Digital Services.* – The digital service provider, whether resident or nonresident, shall be liable for assessing, collecting, and remitting the value-added tax on the digital services consumed in the Philippines, subject to the provision on withholding of value-added tax on digital services under Section 114(D).

“When used in this title:

“(a) The term ‘digital service’ shall refer to any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated. Digital services shall include:

“(1) Online search engine;

“(2) Online marketplace or e-marketplace;

“(3) Cloud service;

“(4) Online media and advertising;

“(5) Online platform; or

“(6) Digital goods.

“(B) The term ‘digital service provider’ refers to a resident or nonresident supplier of digital services to a consumer who uses digital services subject to value-added tax in the Philippines.

“(C) The term ‘nonresident digital service provider’ means a digital service provider that has no physical presence in the Philippines.”

SEC. 4. A new section designated as Section 108-B under Chapter I, Title IV, of the National Internal Revenue Code of 1997, as amended, is hereby inserted to read as follows:

“SEC. 108-B. *Liability of a Nonresident Digital Service Provider to Withhold and Remit Value-Added Tax.* – A nonresident digital service provider required to be registered for value-added tax (VAT) under Section 236(F) of this Code shall be liable for the remittance of value-added tax on the digital services that are consumed in the Philippines if the consumers are non-VAT registered: *Provided*, That if the consumers are VAT-registered, the provision of Section 114(D) shall apply.

“If a VAT-registered nonresident digital service provider is classified as an online marketplace or e-marketplace, it shall also be liable to remit the value-added tax on the transactions of nonresident sellers that go through its platform: *Provided*, That it controls key aspects of the supply and performs any of the following:

“(a) It sets, either directly or indirectly, any of the terms and conditions under which the supply of goods is made; or

“(b) It is involved in the ordering or delivery of goods, whether directly or indirectly.”

SEC. 5. Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 109. *Exempt Transactions.* –

“The following transactions shall be exempt from the value-added tax:

“(A) x x x

“(B) x x x

“(C) x x x

“(D) x x x

“(E) x x x

“(F) x x x

“(G) x x x

“(H) Educational services, including online courses, online seminars, and online trainings, rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and those rendered by government educational institutions; and sale of online subscription-based services to DepEd, CHED, TESDA, and educational institutions recognized by said government agencies;

“(I) x x x

“(J) x x x

“(K) x x x

“(L) x x x

“(M) x x x

“(N) x x x

“(O) x x x

“(P) x x x

“(Q) x x x

“(R) x x x

“(S) x x x

“(T) x x x

“(U) x x x

“(V) Services of bank, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries, including those rendered through different digital platforms;

“(W) x x x

“(X) x x x

“(Y) x x x

“(Z) x x x

“(AA) x x x

“(BB) x x x

“(CC) x x x.”

SEC. 6. Section 110 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 110. *Tax Credits.* –

“(A) *Creditable Input Tax.* –

“(1) x x x

“(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

“(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

“(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

“*Provided*, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

“Notwithstanding the foregoing, nonresident digital service providers shall not be allowed to claim creditable input tax.

“x x x.”

SEC. 7. Section 113 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

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

“(A) *Invoicing Requirement.* – A VAT-registered person shall issue a VAT invoice for every sale, barter, exchange, or lease of goods or properties, and for every sale, barter, or exchange of services: *Provided*, That a digital sales or commercial invoice shall be issued for every sale, barter, or exchange of digital services made by a VAT-registered nonresident digital service provider.

“(B) *Information Contained in the VAT Invoice.* –
x x x

“(1) x x x

“(2) x x x

“(3) x x x

“(4) x x x

“(5) The digital sales or commercial invoice issued by a VAT-registered nonresident digital service provider shall indicate the following information in lieu of the requirements under Section 113, Subsection (b), paragraphs 1 to 4:

“(a) Date of the transaction;

“(b) Transaction reference number;

“(c) Identification of the consumer;

“(d) Brief description of the transaction; and

“(e) The total amount with the indication that such amount includes the value-added tax:

“*Provided*, That if the sale of digital services includes some services which are subject to VAT, and some that are VAT zero-rated, or VAT-exempt, the invoice shall clearly indicate the breakdown of the sale price by its taxable, VAT-exempt, and VAT zero-rated components: *Provided, further*, That the calculation of the value-added tax on each portion of the sale shall be shown on the invoice.

“(C) *Accounting Requirements*. – Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance: *Provided*, That this subsection shall not apply to VAT-registered nonresident digital service providers.

“(D) x x x

“(E) x x x.”

SEC. 8. Section 114 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

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

–

“(A) *In General*. – x x x

“(B) *Where to File the Return and Pay the Tax*. –

x x x

“(C) *Withholding of Value-Added Tax*. – The Government or any of its political subdivisions, instrumentalities or agencies, including government-owned or -controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and services which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold a final value-added tax at the rate of five percent (5%) of the gross payment thereof: *Provided*, That beginning January 1, 2021, the VAT withholding system under this subsection shall shift from final to a creditable system: *Provided, further*, That the payment for lease or use of properties or property rights to nonresident owners and payments for services to nonresident suppliers who are not registered under Section 236 shall be subject to twelve percent (12%) withholding tax at the time of payment: *Provided, finally*, That payments for purchases of goods and services arising from projects funded by Official Development Assistance (ODA) as defined under Republic Act No. 8182, otherwise known as the ‘Official Development Assistance Act of 1996’ as amended, shall not be subject to the final withholding tax system as imposed in this subsection. For purposes of this section, the payor or person in control of the payment shall be considered as the withholding agent.

“(D) *Reverse Charge Mechanism in Digital Services*. – A VAT-registered taxpayer shall be liable to withhold and remit the value-added tax due on its purchase of digital services consumed in the Philippines from nonresident digital service providers to the Bureau of Internal Revenue, within ten (10) days following the end of the month the withholding was made.”

SEC. 9. Section 115 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 115. *Power of the Commissioner to Suspend the Business Operations of a Taxpayer*. –

x x x

“(a) x x x. –

(1) x x x

(2) x x x

(3) x x x

“(b) *Failure of any Person to Register as Required under Section 236.*

“The temporary closure of the establishment shall be for the duration of not less than five (5) days and shall be lifted only upon compliance with whatever requirements prescribed by the Commissioner in the closure order.

“The power of the Commissioner to suspend shall include the blocking of digital services performed or rendered in the Philippines by a digital service provider. This shall be implemented by the Department of Information and Communications Technology (DICT), through the National Telecommunications Commission (NTC).”

SEC. 10. Section 128 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 128. *Returns and Payment of Percentage Taxes.* –

“(A) *Returns of Gross Sales or Earnings and Payment of Tax.* –

“(1) *Persons Liable to Pay Percentage Taxes.* – Every person subject to the percentage taxes imposed under this Title shall file, either electronically or manually, a quarterly return of the amount of the person’s gross sales or earnings and pay, either electronically or manually, to any authorized agent bank, Revenue District Office through Revenue Collection Officer or authorized tax software provider, the tax due thereon within twenty-five (25) days after the end of each taxable quarter: *Provided*, That the Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of percentage taxes

imposed under this Title: *Provided, further*, That in the case of a person whose VAT registration is cancelled and who becomes liable to the tax imposed in Section 116 of this Code, the tax shall accrue from the date of cancellation and shall be paid in accordance with the provisions of this section.

“(2) *Person Retiring from Business.* – Any person retiring from a business subject to percentage tax shall notify the nearest internal revenue officer, file, either electronically or manually, the person’s return and pay, either electronically or manually, the tax due thereon within twenty (20) days after closing the business.

“(3) *Determination of Correct Sales.* – When it is found that a person has failed to issue invoices, or when no return is filed, or when there is reason to believe that the books of accounts or other records do not correctly reflect the declarations made or to be made in a return required to be filed under the provisions of this Code, the Commissioner, after taking into account the sales or other taxable base of other persons engaged in similar businesses under similar situations or circumstances, or after considering other relevant information, may prescribe a minimum amount of such gross sales and taxable base and such amount so prescribed shall be *prima facie* correct for purposes of determining the internal revenue tax liabilities of such person.

“(B) *Where to File.* – x x x.”

SEC. 11. Section 236 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 236. *Registration Requirements.* –

“(A) x x x

“(B) x x x

“(C) x x x

“(D) x x x

“(E) x x x

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

“(1) Any person who, in the course of trade or business, sells, barter, exchanges, or leases goods or properties, including those digital in nature, any person who renders services, including digital services, or engages in the sale or exchange of services, shall be liable to register, either electronically or manually, for value-added tax if:

“(a) The person’s gross sales for the past twelve (12) months, other than those that are exempt under Section 109(A) to (CC), have exceeded the threshold as provided in Section 109(CC); or

“(b) There are reasonable grounds to believe that the gross sales for the next twelve (12) months, other than those that are exempt under Section 109(A) to (CC), will exceed the threshold as provided in Section 109(CC):

“*Provided*, That the BIR shall establish a simplified automated registration system for nonresident digital service providers, which shall be prescribed by the Secretary of Finance, upon the recommendation of the Commissioner.

“x x x.”

SEC. 12. Section 288 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 288. *Disposition of Incremental Revenues.* –

“x x x

“(H) *Incremental Revenues from the Value-added Tax on Digital Service Providers.* – Five percent (5%) of the incremental revenue from the value-added tax on digital service providers under Section 108 shall be allocated to and used exclusively for the development of creative industries, as defined under Republic Act No. 11904, otherwise known as the “Philippine Creative Industries Development Act,” for five (5) years from the effectivity of this Act.

“Upon the lapse of the five(5)-year period, all such incremental revenues shall accrue to the General Fund.”

SEC. 13. *Mode of Correspondence.* – Any communication, notice, or summons to a nonresident digital service provider can be made via electronic mail messaging.

SEC. 14. *Transitory Clause.* – Nonresident digital service providers shall immediately be subject to value-added tax under this Act after one hundred twenty (120) days from the effectivity of the implementing rules and regulations.

SEC. 15. *Implementing Rules and Regulations.* – The Department of Finance (DOF), upon the recommendation of the BIR, and in coordination with the DICT and the NTC, and upon consultation with the stakeholders, shall issue rules and regulations for the effective implementation of this Act not later than ninety (90) days from the effectivity of this Act.

SEC. 16. *Separability Clause.* – Should any provision of this Act or any part thereof be declared invalid, the other provisions, so far as they are separable from the invalid ones, shall remain in force and effect.

SEC. 17. *Repealing Clause.* – All laws, decrees, orders, and issuances, or portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended, or modified accordingly.

SEC. 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

FRANCIS "CHIZ" G. ESCUDERO
President of the Senate

FERDINAND MARTIN G. ROMUALDEZ
Speaker of the House of Representatives

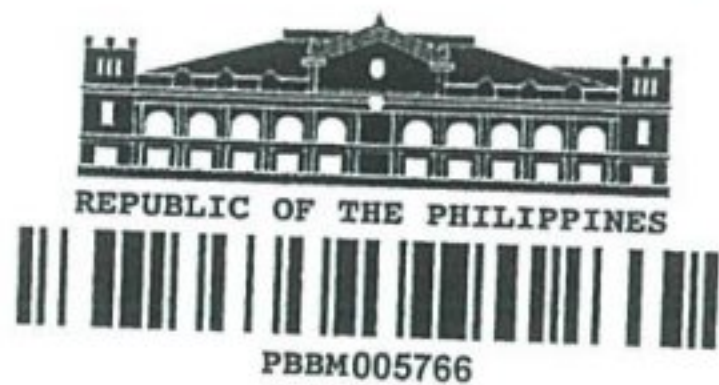
This Act, which is a consolidation of House Bill No. 4122 and Senate Bill No. 2528, was passed by the House of Representatives and the Senate of the Philippines on July 30, 2024 and July 29, 2024, respectively.

RENATO N. BANTUC JR.
Secretary of the Senate
REGINALD S. VELASCO
Secretary General House of Representatives

Approved: **OCT 02 2024**


FERDINAND ROMUALDEZ MARCOS JR.
President of the Philippines

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ATTY. KAMILLE N. ESPINO
ACTING DIRECTOR IV
10-2-2024