

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. _____

(In substitution of House Bills No. 6765 and 6944)

Introduced by Representatives Joey Sarte Salceda, Sharon S. Garin, Jericho Jonas B. Nograles, Stella Luz A. Quimbo, Teodorico T. Haresco, Jr., Jesus “Bong” C. Suntay, Estrellita B. Suansing, and Alyssa Sheena P. Tan

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

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

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

6 The rule of regularity, to the contrary notwithstanding, services as defined in this Code
7 rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in
8 the course of trade or business.

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

11 **SEC. 105-A. PERSONS LIABLE IN DIGITAL OR ELECTRONIC**
12 **TRANSACTIONS. - THE NONRESIDENT DIGITAL SERVICE PROVIDER IS**
13 **LIABLE FOR ASSESSING, COLLECTING, AND REMITTING THE VALUE-**
14 **ADDED TAX ON THE TRANSACTIONS THAT GO THROUGH ITS PLATFORM.**

15 **FOR THIS PURPOSE, THE DIGITAL SERVICE PROVIDER REFERS TO**
16 **A SERVICE PROVIDER OF A DIGITAL SERVICE OR GOODS TO A BUYER,**
17 **THROUGH OPERATING AN ONLINE PLATFORM FOR PURPOSES OF**
18 **BUYING AND SELLING OF GOODS OR SERVICES OR BY MAKING**
19 **TRANSACTIONS FOR THE PROVISION OF DIGITAL SERVICES ON BEHALF**
20 **OF ANY PERSON: PROVIDED, THAT THE DIGITAL SERVICE PROVIDER**
21 **MAY BE:**

22 **A) A THIRD PARTY THAT ACTS AS A CONDUIT FOR GOODS OR**
23 **SERVICES OFFERED BY A SUPPLIER TO A BUYER AND RECEIVES**
24 **COMMISSION THEREFOR, WHICH MAY ALSO BE CONSIDERED AS**
25 **A MERCHANDISER OR RETAILER WHEN BUYERS PURCHASE**

1 **GOODS OR SERVICES FROM AN INTERMEDIARY SERVICE**
2 **PROVIDER WHO CONTROLS SUCH COLLECTION OF BUYERS’**
3 **PAYMENTS, AND THEREAFTER RECEIVES COMMISSION FROM**
4 **THE MERCHANT OR RETAILER OR WHEN THE INTERMEDIARY**
5 **MARKETS MULTIPLE PRODUCTS FOR ITS OWN ACCOUNT;**

6 **B) A PLATFORM PROVIDER FOR PROMOTION THAT USES THE**
7 **INTERNET TO DELIVER MARKETING MESSAGES TO ATTRACT**
8 **BUYERS;**

9 **C) A HOST OF ONLINE AUCTIONS CONDUCTED THROUGH THE**
10 **INTERNET, WHERE THE SELLER SELLS THE PRODUCT OR**
11 **SERVICE TO THE PERSON WHO BIDS THE HIGHEST PRICE;**

12 **D) A SUPPLIER OF DIGITAL SERVICES TO A BUYER IN EXCHANGE**
13 **FOR A REGULAR SUBSCRIPTION FEE OVER THE USAGE OF THE**
14 **SAID PRODUCT OR SERVICE; AND**

15 **E) A SUPPLIER OF ELECTRONIC AND ONLINE SERVICES THAT CAN**
16 **BE DELIVERED THROUGH AN INFORMATION TECHNOLOGY**
17 **INFRASTRUCTURE, SUCH AS THE INTERNET.**

18 **FOR THIS PURPOSE, A *BUYER* REFERS TO ANY PERSON WHO**
19 **RESIDES IN THE PHILIPPINES AND WHO ACQUIRES TAXABLE DIGITAL**
20 **SERVICES IN THE PHILIPPINES FROM A DIGITAL SERVICE PROVIDER**
21 **EITHER FOR PERSONAL CONSUMPTION OR FOR USE FOR TRADE OR**
22 **BUSINESS. A *DIGITAL SERVICE* REFERS TO ANY SERVICE THAT IS**
23 **DELIVERED OR SUBSCRIBED OVER THE INTERNET OR OTHER**
24 **ELECTRONIC NETWORK AND WHICH CANNOT BE OBTAINED WITHOUT**
25 **THE USE OF INFORMATION TECHNOLOGY AND WHERE THE DELIVERY**

1 **OF THE SERVICE MAY BE AUTOMATED. DIGITAL SERVICES SHALL**
2 **INCLUDE ONLINE LICENSING OF SOFTWARE, UPDATES, AND ADD-ONS,**
3 **WEBSITE FILTERS AND FIREWALLS; MOBILE APPLICATIONS, VIDEO**
4 **GAMES, AND ONLINE GAMES; WEBCAST AND WEBINARS; PROVISION OF**
5 **DIGITAL CONTENT SUCH AS MUSIC, FILES, IMAGES, TEXT AND**
6 **INFORMATION; ADVERTISEMENT PLATFORM SUCH AS PROVISION OF**
7 **ONLINE ADVERTISING SPACE ON INTANGIBLE MEDIA PLATFORM;**
8 **ONLINE PLATFORM SUCH AS ELECTRONIC MARKETPLACES OR**
9 **NETWORKS FOR THE SALE, DISPLAY, AND COMPARISON OF PRICES OF**
10 **TRADE PRODUCTS OR SERVICES; SEARCH ENGINE SERVICES; SOCIAL**
11 **NETWORKS; DATABASE AND HOSTING SUCH AS WEBSITE HOSTING,**
12 **ONLINE DATA WAREHOUSING, FILE SHARING AND CLOUD STORAGE**
13 **SERVICES; INTERNET-BASED TELECOMMUNICATION; ONLINE**
14 **TRAINING SUCH AS PROVISION OF DISTANCE TEACHING, E-LEARNING,**
15 **ONLINE COURSES AND WEBINARS; ONLINE NEWSPAPERS AND JOURNAL**
16 **SUBSCRIPTION; AND PAYMENT PROCESSING SERVICES.**

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

19 SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties.-

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

23 The phrase ‘sale or exchange of services’ means the performance of all kinds of
24 services in the Philippines for others for a fee, remuneration or consideration, **WHETHER**
25 **RENDERED ELECTRONICALLY OR OTHERWISE**, including those performed or

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

18 The phrase "sale or exchange of services" shall likewise include:

- 19 (1) The lease or the use of or the right or privilege to use any copyright, patent, design
20 or model, plan, secret formula or process, goodwill, trademark, trade brand or
21 other like property or right;
- 22 (2) The lease or the use of, or the right to use of any industrial, commercial or
23 scientific equipment;
- 24 (3) The supply of scientific, technical, industrial or commercial knowledge or
25 information;

- 1 (4) The supply of any assistance that is ancillary and subsidiary to and is furnished
2 as a means of enabling the application or enjoyment of any such property, or right
3 as is mentioned in subparagraph (2) or any such knowledge or information as is
4 mentioned in subparagraph (3);
- 5 (5) The supply of services by a nonresident person or his employee in connection
6 with the use of property or rights belonging to, or the installation or operation of
7 any brand, machinery or other apparatus purchased from such nonresident
8 person;
- 9 (6) The supply of technical advice, assistance or services rendered in connection
10 with technical management or administration of any scientific, industrial or
11 commercial undertaking, venture, project or scheme;
- 12 (7) **THE SUPPLY BY ANY RESIDENT OR NONRESIDENT PERSON OF**
13 **DIGITAL SERVICES SUCH AS ONLINE ADVERTISEMENT**
14 **SERVICES, PROVISION FOR DIGITAL ADVERTISING SPACE, AND**
15 **ANY OTHER FACILITY OR SERVICE FOR THE PURPOSE OF**
16 **ONLINE ADVERTISEMENT;**
- 17 (8) **THE SUPPLY BY ANY RESIDENT OR NONRESIDENT PERSON OF**
18 **DIGITAL SERVICES IN EXCHANGE FOR A REGULAR**
19 **SUBSCRIPTION FEE OVER THE USAGE OF THE SAID PRODUCT OR**
20 **SERVICE;**
- 21 (9) **THE SUPPLY OF ELECTRONIC AND ONLINE SERVICES THAT CAN**
22 **BE DELIVERED THROUGH AN INFORMATION TECHNOLOGY**
23 **INFRASTRUCTURE, SUCH AS THE INTERNET;**
- 24 (10) [7] The lease of motion picture films, films, tapes and discs; and

1 (J) xxx

2 (K) xxx

3 (L) xxx

4 (M) xxx

5 (N) xxx

6 (O) xxx

7 (P) xxx

8 (Q) xxx

9 (R) Sale, importation, printing or publication of books and any newspaper,
10 magazine, review or bulletin which appears at regular intervals with fixed prices
11 or subscription and sale and which is not devoted principally to the publication
12 of paid advertisements, **INCLUDING THOSE SOLD ELECTRONICALLY**
13 **OR ONLINE.**

14 xxx xxx xxx

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

17 SEC. 110. Tax Credits. –

18 (A) Creditable Input Tax. –

19 (1) xxx

20 (2) xxx

21 Provided, That the input tax on goods purchased or imported in a calendar month for
22 use in trade or business for which deduction for depreciation is allowed under this Code shall
23 be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the
24 aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One
25 million pesos (P1,000,000): Provided, however, That if the estimated useful life of the capital

1 good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be
2 spread over such a shorter period: Provided, further, That the amortization of the input VAT
3 shall only be allowed until December 31, 2021 after which taxpayers with unutilized input
4 VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled
5 until fully utilized: Provided, finally, That in the case of purchase of services, lease or use of
6 properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment
7 of the compensation, rental, royalty or fee.

8 **NOTWITHSTANDING THE FOREGOING, NO CREDITABLE INPUT TAX**
9 **SHALL BE CLAIMED BY NONRESIDENT DIGITAL SERVICE PROVIDERS.**

10 xxx xxx xxx

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

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

14 (A) Invoicing Requirements. – A VAT-registered person shall issue:

15 (1) xxx

16 (2) xxx

17 (B) xxx

18 (C) xxx

19 **(D) NOTWITHSTANDING SUBSECTION (A), A VAT-REGISTERED**
20 **NONRESIDENT DIGITAL SERVICE PROVIDER MAY ISSUE ELECTRONIC**
21 **INVOICE OR RECEIPT SUBJECT TO THE RULES AND REGULATIONS TO**
22 **BE PRESCRIBED BY THE SECRETARY OF FINANCE UPON THE**
23 **RECOMMENDATION OF THE COMMISSIONER OF INTERNAL**
24 **REVENUE.**

25 xxx xxx xxx

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

3 SEC. 114. Return and Payment of Value-Added Tax. –

4 (A) In General. - Every person liable to pay the value-added tax imposed under this
5 Title shall file a quarterly return of the amount of his gross sales or receipts within
6 twenty-five (25) days following the close of each taxable quarter prescribed for each
7 taxpayer: Provided, however, That VAT-registered persons shall pay the value-
8 added tax on a monthly basis: Provided, finally, That beginning January 1, 2023,
9 the filing and payment required under the Subsection shall be done within twenty-
10 five (25) days following the close of each taxable quarter.

11 Any person, whose registration has been cancelled in accordance with Section
12 236, shall file a return and pay the tax due thereon within twenty-five (25) days
13 from the date of cancellation of registration: Provided, That only one consolidated
14 return shall be filed by the taxpayer for his principal place of business or head office
15 and all branches.

16 (B) Where to File the Return and Pay the Tax. - Except as the Commissioner otherwise
17 permits, the return shall be filed with and the tax paid to an authorized agent bank,
18 Revenue Collection Officer or duly authorized city or municipal Treasurer in the
19 Philippines located within the revenue district where the taxpayer is registered or
20 required to register.

21 (C) Withholding of Value-added Tax. - The Government or any of its political
22 subdivisions, instrumentalities or agencies, including government-owned or -
23 controlled corporations (GOCCs) shall, before making payment on account of each
24 purchase of goods and services which are subject to the value-added tax imposed in
25 Sections 106 and 108 of this Code, deduct and withhold a final value-added tax at

1 the rate of five percent (5%) of the gross payment thereof: Provided, That beginning
2 January 1, 2021, the VAT withholding system under this Subsection shall shift
3 from final to a creditable system: Provided, further, That [the payment for lease or
4 use of properties or property rights to nonresident owners] **UNLESS THEY ARE**
5 **DULY-REGISTERED WITH THE BUREAU OF INTERNAL REVENUE**
6 **UNDER SECTION 236, PAYMENTS TO NONRESIDENTS FOR SERVICES**
7 **RENDERED IN THE PHILIPPINES UNDER SECTION 108** shall be subject to
8 twelve percent (12%) withholding tax at the time of payment: Provided, finally,
9 That payments for purchases of goods and services arising from projects funded by
10 Official Development Assistance (ODA) as defined under Republic Act No. 8182,
11 otherwise known as the ‘Official Development Act of 1996’, as amended, shall not
12 be subject to the final withholding tax system as imposed in this Subsection. For
13 purposes of this Section, the payor or person in control of the payment shall be
14 considered as the withholding agent.

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

17 SEC. 236. *Registration Requirements-*

- 18 (A) xxx
- 19 (B) xxx
- 20 (C) xxx
- 21 (D) xxx
- 22 (E) xxx
- 23 (F) xxx

24 (G) Persons Required to Register for Value-Added Tax. –

- 25 (1) xxx
- 26 (2) xxx

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

5 A) HIS GROSS SALES OR RECEIPTS FOR THE PAST
6 TWELVE (12) MONTHS, OTHER THAN THOSE THAT ARE
7 EXEMPT UNDER SECTION 109(A) TO (BB), HAVE
8 EXCEEDED THREE MILLION PESOS (P3,000,000); OR

9 B) THERE ARE REASONABLE GROUNDS TO BELIEVE
10 THAT HIS GROSS SALES OR RECEIPTS FOR THE NEXT
11 TWELVE (12) MONTHS, OTHER THAN THOSE THAT ARE
12 EXEMPT UNDER SECTION 109(A) TO (BB), WILL
13 EXCEED THREE MILLION PESOS (P3,000,000);

14 PROVIDED, THAT THE BIR SHALL ESTABLISH A
15 SIMPLIFIED AUTOMATED REGISTRATION
16 SYSTEM FOR NONRESIDENT DIGITAL SERVICE
17 PROVIDERS SUBJECT TO THE RULES AND
18 REGULATIONS TO BE PRESCRIBED BY THE
19 SECRETARY OF FINANCE UPON THE
20 RECOMMENDATION OF THE COMMISSIONER OF
21 INTERNAL REVENUE.

22 xxx xxx xxx

23 SEC. 9. *Implementing Rules and Regulations.* – To carry out the provisions of this Act,
24 the implementing rules and regulations shall be promulgated by the Department of Finance
25 (DOF), upon the recommendation of the BIR, and in coordination with the Department of

1 Information and Communication Technology (DICT) not later than ninety (90) days after the
2 approval of this Act.

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

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

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

12 SEC.13. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in
13 the Official Gazette or in at least one (1) newspaper of general circulation.

14 Approved,