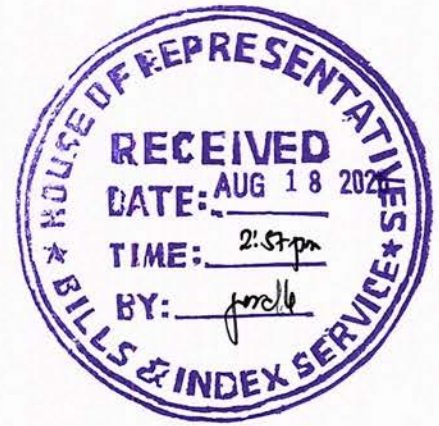


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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



Eighteenth Congress
Second Regular Session

COMMITTEE REPORT NO. 426

Submitted by the Committee on Ways and Means on AUG 18 2020

RE : House Bill No. 7425

Recommending its approval in substitution of House Bills Numbered 4531, 6765, 6944, and House Resolution No. 685

SPONSORS : Representatives Joey Sarte Salceda and Sharon S. Garin

Mr. Speaker:

The Committee on Ways and Means to which was referred House Bill No. 4531, introduced by Rep. Vilma Santos-Recto, entitled:

“AN ACT EXEMPTING BOOKS, NEWSPAPERS, MAGAZINES, JOURNALS, REVIEWS, BULLETINS AND OTHER EDUCATIONAL OR LEARNING MATERIALS MADE OR PUBLISHED IN DIGITAL OR ELECTRONIC FORMAT FROM VALUE-ADDED TAX, AMENDING FOR THE PURPOSE SECTION 109 (1) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED”;

House Bill No. 6765, introduced by Rep. Joey Sarte Salceda, entitled:

“AN ACT ESTABLISHING A FISCAL REGIME FOR THE DIGITAL ECONOMY, AMENDING FOR THE PURPOSE SECTIONS 57, 105, 108, AND 114 OF THE NATIONAL INTERNAL REVENUE CODE, AND FOR OTHER PURPOSES”;

House Bill No. 6944, introduced by Rep. Sharon S. Garin, entitled:

“AN ACT ESTABLISHING DIGITAL TAXATION IN THE PHILIPPINES”;

and

House Resolution No. 685, introduced by Rep. Deogracias Victor "DV" B. Savellano, entitled:

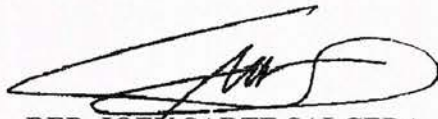
"RESOLUTION REQUESTING THE HOUSE OF REPRESENTATIVES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ONLINE COMPANIES SUCH AS GRAB, LAZADA, SURPLUS, SHOPEE, AIR BNB, ANGKAS AND SUCH OTHER SIMILAR COMPANIES, AS TO WHETHER THEY ARE CORRECTLY PAYING THEIR TAXES AND TO DETERMINE HOW MUCH"

has considered the same and recommends that the attached House Bill No. 7425, entitled:

"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 approved in substitution of House Bills No. 4531, 6765, 6944, and House Resolution No. 685 with Representatives Joey Sarte Salceda, Sharon S. Garin, Vilma Santos-Recto, Deogracias Victor "DV" B. Savellano, Estrellita B. Suansing, Jericho Jonas B. Nograles, Teodorico T. Haresco, Jr., Jesus "Bong" C. Suntay, Kristine Singson-Meehan, Micaela S. Violago, Sergio C. Dagooc, Weslie T. Gatchalian, Arnie B. Fuentebella, Jose "Jun" L. Ong Jr., Joy Myra S. Tambunting, Rose Marie "Baby" J. Arenas, Prospero A. Pichay Jr., Jake Vincent Villa, Lorenz R. Defensor, Raneo "Ranie" E. Abu, Jumel Anthony I. Espino, and Horacio P. Suansing Jr. as authors.

Respectfully submitted,



REP. JOEY SARTE SALCEDA
Chairperson
Committee on Ways and Means

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 7425

(In substitution of House Bills No. 4531, 6765, 6944, and House Resolution No. 685)

Introduced by Representatives Joey Sarte Salceda, Sharon S. Garin, Vilma Santos-Recto, Deogracias Victor "DV" B. Savellano, Estrellita B. Suansing, Jericho Jonas B. Nograles, Teodorico T. Haresco, Jr., Jesus "Bong" C. Suntay, Kristine Singson-Meehan, Micaela S. Violago, Sergio C. Dagooc, Weslie T. Gatchalian, Arnie B. Fuentesbella, Jose "Jun" L. Ong Jr., Joy Myra S. Tambunting, Rose Marie "Baby" J. Arenas, Prospero A. Pichay Jr., Jake Vincent S. Villa, Lorenz R. Defensor, Raneo "Ranie" E. Abu, Jumel Anthony I. Espino, and Horacio P. Suansing Jr.

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

1 existing contracts of sale or lease of goods, properties, or services at the time of the effectivity of
2 Republic Act No. 7716.

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

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

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

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

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

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

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

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

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

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

23 **FOR THIS PURPOSE, THE TERM “BUYER” REFERS TO ANY PERSON**
24 **WHO RESIDES IN THE PHILIPPINES AND WHO ACQUIRES TAXABLE**
25 **DIGITAL SERVICES IN THE PHILIPPINES FROM A DIGITAL SERVICE**

1 PROVIDER EITHER FOR PERSONAL CONSUMPTION, OR FOR TRADE OR
2 BUSINESS PURPOSES. THE TERM “DIGITAL SERVICE” REFERS TO ANY
3 SERVICE THAT IS DELIVERED OR SUBSCRIBED OVER THE INTERNET
4 OR OTHER ELECTRONIC NETWORK AND WHICH CANNOT BE
5 OBTAINED WITHOUT THE USE OF INFORMATION TECHNOLOGY AND
6 WHERE THE DELIVERY OF THE SERVICE MAY BE AUTOMATED.
7 DIGITAL SERVICES SHALL INCLUDE ONLINE LICENSING OF
8 SOFTWARE, UPDATES, AND ADD-ONS, WEBSITE FILTERS AND
9 FIREWALLS; MOBILE APPLICATIONS, VIDEO GAMES, AND ONLINE
10 GAMES; WEBCAST AND WEBINARS; PROVISION OF DIGITAL CONTENT
11 SUCH 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, E-LEARNING,
21 ONLINE COURSES AND WEBINARS; ONLINE NEWSPAPERS AND
22 JOURNAL SUBSCRIPTION; AND PAYMENT PROCESSING SERVICES.”

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

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

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

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

- 1 (1) The lease or the use of or the right or privilege to use any copyright, patent,
2 design or model, plan, secret formula or process, goodwill, trademark, trade
3 brand or other like property or right;
- 4 (2) The lease or the use of, or the right to use of any industrial, commercial or
5 scientific equipment;
- 6 (3) The supply of scientific, technical, industrial or commercial knowledge or
7 information;
- 8 (4) The supply of any assistance that is ancillary and subsidiary to and is furnished
9 as a means of enabling the application or enjoyment of any such property, or
10 right as is mentioned in subparagraph (2) or any such knowledge or information
11 as is mentioned in subparagraph (3);
- 12 (5) The supply of services by a nonresident person or the employee in connection
13 with the use of property or rights belonging to, or the installation or operation
14 of any brand, machinery or other apparatus purchased from such nonresident
15 person;
- 16 (6) The supply of technical advice, assistance or services rendered in connection
17 with technical management or administration of any scientific, industrial or
18 commercial undertaking, venture, project or scheme;
- 19 **(7) THE SUPPLY BY ANY PERSON, WHETHER RESIDENT OR**
20 **NONRESIDENT, OF DIGITAL SERVICES SUCH AS ONLINE**
21 **ADVERTISEMENT SERVICES, PROVISION FOR DIGITAL**
22 **ADVERTISING SPACE, AND ANY OTHER FACILITY OR SERVICE**
23 **FOR THE PURPOSE OF ONLINE ADVERTISEMENT;**

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

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

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

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

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

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

19 xxx xxx xxx

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

22 “SEC. 109. Exempt Transactions. –

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

25 (A) xxx

- 1 (B) xxx
- 2 (C) xxx
- 3 (D) xxx
- 4 (E) xxx
- 5 (F) xxx
- 6 (G) xxx
- 7 (H) xxx
- 8 (I) xxx
- 9 (J) xxx
- 10 (K) xxx
- 11 (L) xxx
- 12 (M)xxx
- 13 (N) xxx
- 14 (O) xxx
- 15 (P) xxx
- 16 (Q) xxx
- 17 (R) Sale, importation, printing or publication of books and any newspaper,
- 18 magazine, review or bulletin which appears at regular intervals with fixed
- 19 prices or subscription and sale and which is not devoted principally to the
- 20 publication of paid advertisements, **INCLUDING THOSE SOLD**
- 21 **ELECTRONICALLY OR ONLINE.”**

22 xxx xxx xxx

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

25 “SEC. 110. Tax Credits. –

1 (A) Creditable Input Tax. –

2 (1) xxx

3 (2) xxx

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

16 **NOTWITHSTANDING THE FOREGOING, NO CREDITABLE INPUT TAX**
17 **SHALL BE CLAIMED BY NONRESIDENT DIGITAL SERVICE PROVIDERS.”**

18 xxx xxx xxx

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

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

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

23 (1) xxx

24 (2) xxx

25 (B) xxx

1 (C) xxx

2 **(D) NOTWITHSTANDING SUBSECTION (A), A VAT-REGISTERED**
3 **NONRESIDENT DIGITAL SERVICE PROVIDER MAY ISSUE AN**
4 **ELECTRONIC INVOICE OR RECEIPT, SUBJECT TO THE RULES AND**
5 **REGULATIONS TO BE PRESCRIBED BY THE SECRETARY OF FINANCE**
6 **UPON THE RECOMMENDATION OF THE COMMISSIONER OF**
7 **INTERNAL REVENUE.”**

8 xxx xxx xxx

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

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

12 (A) In General. - Every person liable to pay the value-added tax imposed under this
13 Title shall file a quarterly return of the amount of gross sales or receipts within
14 twenty-five (25) days following the close of each taxable quarter prescribed for
15 each taxpayer: Provided, however, That VAT-registered persons shall pay the
16 value-added tax on a monthly basis: Provided, finally, That beginning January 1,
17 2023, the filing and payment required under the Subsection shall be done within
18 twenty-five (25) days following the close of each taxable quarter.

19 Any person, whose registration has been cancelled in accordance with Section
20 236, shall file a return and pay the tax due thereon within twenty-five (25) days
21 from the date of cancellation of registration: Provided, That only one consolidated
22 return shall be filed by the taxpayer for his principal place of business or head
23 office and all branches.

24 (B) Where to File the Return and Pay the Tax. - Except as the Commissioner
25 otherwise permits, the return shall be filed with and the tax paid to an authorized

1 agent bank, Revenue Collection Officer or duly authorized city or municipal
2 Treasurer in the Philippines located within the revenue district where the taxpayer
3 is registered or required to register.

4 (C) Withholding of Value-added Tax. - The Government or any of its political
5 subdivisions, instrumentalities or agencies, including government-owned or -
6 controlled corporations (GOCCs) shall, before making payment on account of
7 each purchase of goods and services which are subject to the value-added tax
8 imposed in Sections 106 and 108 of this Code, deduct and withhold a final value-
9 added tax at the rate of five percent (5%) of the gross payment thereof: Provided,
10 That beginning January 1, 2021, the VAT withholding system under this
11 Subsection shall shift from final to a creditable system: Provided, further, That
12 [the payment for lease or use of properties or property rights to nonresident
13 owners] **UNLESS THEY ARE DULY-REGISTERED WITH THE BUREAU**
14 **OF INTERNAL REVENUE UNDER SECTION 236, PAYMENTS TO**
15 **NONRESIDENTS FOR SERVICES RENDERED IN THE PHILIPPINES**
16 **UNDER SECTION 108** shall be subject to twelve percent (12%) withholding tax
17 at the time of payment: Provided, finally, That payments for purchases of goods
18 and services arising from projects funded by Official Development Assistance
19 (ODA) as defined under Republic Act No. 8182, otherwise known as the ‘Official
20 Development Act of 1996’, as amended, shall not be subject to the final
21 withholding tax system as imposed in this Subsection. For purposes of this
22 Section, the payor or person in control of the payment shall be considered as the
23 withholding agent.”

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

1 “SEC. 236. *Registration Requirements-*

2 (A) xxx

3 (B) xxx

4 (C) xxx

5 (D) xxx

6 (E) xxx

7 (F) xxx

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

9 (1) xxx

10 (2) xxx

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

16 **A) THE GROSS SALES OR RECEIPTS OF SUCH DIGITAL**
17 **SERVICE BUSINESS FOR THE PAST TWELVE (12)**
18 **MONTHS BEFORE THE DATE OF FILING OF VAT**
19 **RETURN, OTHER THAN THOSE THAT ARE EXEMPT**
20 **UNDER SECTION 109(A) TO (BB), HAVE EXCEEDED**
21 **THREE MILLION PESOS (P3,000,000); OR**

22 **B) THERE ARE REASONABLE GROUNDS TO BELIEVE**
23 **THAT THE GROSS SALES OR RECEIPTS OF THE**
24 **DIGITAL SERVICE BUSINESS FOR THE NEXT TWELVE**
25 **(12) MONTHS FROM THE DATE OF FILING OF VAT**
26 **RETURN, OTHER THAN THOSE THAT ARE EXEMPT**

1 **UNDER SECTION 109(A) TO (BB), WILL EXCEED THREE**
2 **MILLION PESOS (P3,000,000);**

3 **PROVIDED, THAT THE BIR SHALL ESTABLISH A**
4 **SIMPLIFIED AUTOMATED REGISTRATION SYSTEM FOR**
5 **NONRESIDENT DIGITAL SERVICE PROVIDERS SUBJECT**
6 **TO THE RULES AND REGULATIONS TO BE PRESCRIBED**
7 **BY THE SECRETARY OF FINANCE UPON THE**
8 **RECOMMENDATION OF THE COMMISSIONER OF**
9 **INTERNAL REVENUE.**

10 xxx xxx xxx

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

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

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

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

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

House of Representatives

Committee Affairs Department

FACT SHEET

House Bill No. 7425

(In substitution of House Bills No. 4531, 6765, 6944, and House Resolution No. 685)

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

Introduced by Representatives Joey Sarte Salceda, Sharon S. Garin, Vilma Santos-Recto, Deogracias Victor "DV" B. Savellano, Estrellita B. Suansing, Jericho Jonas B. Nograles, Teodorico T. Haresco, Jr., Jesus "Bong" C. Suntay, Kristine Singson-Meehan, Micaela S. Violago, Sergio C. Dagooc, Weslie T. Gatchalian, Arnie B. Fuentebella, Jose "Jun" L. Ong Jr., Joy Myra S. Tambunting, Rose Marie "Baby" J. Arenas, Prospero A. Pichay Jr., Jake Vincent Villa, Lorenz R. Defensor, Raneo "Ranie" E. Abu, Jumel Anthony I. Espino, and Horacio P. Suansing Jr. as authors

Committee Referral: COMMITTEE ON WAYS AND MEANS

Committee Chairperson: HON. JOEY SARTE SALCEDA

OBJECTIVES:

- To level the playing field between traditional and digital businesses by clarifying the imposition of value-added tax (VAT) on digital service providers
- To generate revenues from new sources to fund the country's efforts to recover from the adverse impact of COVID-19

KEY PROVISIONS:

- Clarifies the imposition of VAT on electronic or online sale of services such as:
 - Online advertisement services and provision for digital advertising space;
 - Digital services in exchange for a regular subscription fee; and
 - Supply of other electronic and online services that can be delivered through the internet.
- Defines the liable digital service provider (DSP) to be any of the following:
 - A third party that acts as a conduit for goods or services offered by a supplier to a buyer and receives commission therefor;
 - A platform provider for promotion that uses the internet to deliver marketing messages to attract buyers;
 - A host of online auctions conducted through the internet, where the seller sells the product or service to the person who bids the highest price;

- A supplier of digital services to a buyer in exchange for a regular subscription fee; and
 - A supplier of electronic and online services that can be delivered through the internet.
- Requires nonresident DSPs to collect and remit the VAT on the transactions that pass through its platform;
 - Exempts books and other printed materials that are sold electronically or online from VAT;
 - Precludes nonresident DSPs from claiming creditable input tax;
 - Simplifies invoicing and registration requirements for VAT-registered nonresident DSPs;
 - Imposes a 5% VAT to registered nonresident DSPs providing services to the government, otherwise a 12% VAT is imposed;
 - Requires nonresident DSPs to register for VAT if gross sales or receipts for the past year have exceeded Php3 million; and
 - Provides a transition period of 180 days from the effectivity of the Act to enable the Bureau of Internal Revenue to establish implementation systems before VAT is imposed on DSPs.

RELATED LAWS AND CIRCULARS:

1. Republic Act No. 8792, entitled "An Act Providing for the Recognition and Use of Electronic Commercial and Non-commercial Transactions and Documents, Penalties for Unlawful Use Thereof, and for Other Purposes;"
2. Revenue Memorandum Circular 55-2013: Reiterating Taxpayers' Obligations in Relation to Online Business Transactions;
3. Revenue Memorandum Circular 57-2020: Streamlining of Business Registration Requirements and Revised Checklist of Documentary Requirements; and
4. Revenue Memorandum Circular 60-2020: Obligations of Persons Conducting Business Transactions Through Any Forms of Electronic Media, and Notice to Unregistered Businesses