



# **WTS** Tax Update for the Digital Economy

## Philippines' Digital Services Tax

## INTRODUCTION

In July 2020 the House of Representatives Committee on Ways and Means approved House Bill No. 7425 on Imposition of VAT on Digital Transactions, in Substitution of House Bill Nos. 4531, 6765, 6944, and House Resolution No. 685.

## DEFINITION

**1) Digital Service Provider (DSP)** – a service provider of digital service or goods to buyers through operating an online platform or by making transactions for provision of digital services on behalf of any person. It may be a:

- Third party seller of goods and services who, through information-based technology or the internet, sells multiple products for its own account, or who acts as an intermediary between a supplier and buyer of goods and services collecting or receiving payment from a buyer in behalf of the supplier and receives a commission thereon;
- Platform provider for promotion using the internet to deliver marketing messages;
- Host of online auctions through the internet;
- Supplier of digital services for a regular subscription fee; and
- Supplier of electronic and online services delivered through an information technology (IT) infrastructure, such as the internet.

**2) Buyer** – any person residing in the Philippines and acquires taxable digital services in the Philippines from a DSP for personal consumption or for trade or business.

**3) Digital Service** – any service delivered or subscribed over the internet or other electronic network and can't be obtained without use of IT. It shall include:

- Online licensing of software, updates, and add-ons, website filters and firewalls;
- Mobile applications, video games, and online games;
- Webcast and webinars;
- Provision of digital content such as music, files, images, text and information;
- Advertisement platform;
- Online platform such as electronic marketplaces or networks for the sale, display, and comparison of prices of trade products/services;

- Search engine services;
- Social networks;
- Database and hosting such as website hosting, on-line data warehousing, file sharing and cloud storage services;
- Internet-based telecommunication;
- Online training such as provision of distance teaching, e-learning and online courses and webinars;
- Online newspapers and journal subscription; and
- Payment processing services.

## COVERAGE

Twelve percent (12%) VAT imposed on sale of:

**1) Goods or properties including those digital or electronic in nature**

**2) Services including those rendered electronically**

'Sale or exchange of services' means the performance of all kinds of services in the Philippines, whether rendered electronically or otherwise, including:

- Supply by resident or non-resident of digital services such as online advertisement services
- Supply by resident or non-resident of subscription-based services
- Supply of electronic and online services delivered through IT infrastructure (internet)

## VAT EXEMPTION

Electronic or online sale / importation / publication of books / newspaper / magazine / review or bulletin appearing at regular intervals with fixed prices or subscription and sale not devoted principally to the publication of paid advertisements.

## INPUT TAX CREDITS AND INVOICING REQUIREMENTS

- No creditable input tax shall be claimed by non-resident digital service providers
- VAT-registered DSP may issue electronic invoice or receipt subject to the rules to be prescribed

### WITHHOLDING OF VAT

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- Payments to non-VAT registered non-residents for services rendered in the Philippines subject to 12% withholding VAT at the time of payment

### VAT REGISTRATION

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Non-resident digital service provider liable to register for VAT if:

- Gross sales / receipts for past twelve (12) months before date of filing for VAT return exceeded P3 million; or
- Reasonable grounds to believe that gross sales / receipts for next 12 months from date of filing VAT return will exceed P3 million

Philippines' Bureau of Internal Revenue ("BIR") shall establish a simplified automated registration system for non-resident DSPs subject to rules to be prescribed by the Secretary of Finance as recommended by BIR Commissioner

### EFFECTIVITY

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Non-resident DSP to be subjected to VAT **after 180 days** from effectivity of Act

*NOTE:* HB 7425 approved by the House of Representatives' Committee on Ways and Means.

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