

## **VAT imposed on Digital Services in the Philippines**

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One Asia Lawyers Philippines Team

Yasuaki Nanba (Japanese Lawyer)

Camille Himala (Attorney in the Philippines)

On 2 October 2024, the Philippines enacted Republic Act (R.A.) No. 12023, which amended its tax code, or the National Internal Revenue Code (NIRC), to impose value-added tax (VAT) on digital services.

Under the new law, digital service providers (DSPs) shall be liable for assessing, collecting and remitting VAT on digital services consumed in the Philippines. Since this amendment also applies to businesses that do not have an office in the Philippines, all businesses transacting business in the Philippine market should be aware of it.



### **Digital Services**

“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 supply of the service is essentially automated. It shall include online search engine, online marketplace or e-marketplace, cloud service, online media advertising, online platform or digital goods.

Digital service providers (DSP) are resident or non-resident suppliers of digital services to a consumer who uses digital services subject to VAT in the Philippines. A non-resident DSP (NRDSP) is a digital service provider that has no physical presence in the Philippines.

DSPs, whether resident or non-resident, shall be liable for assessing, collecting and remitting the VAT on digital services consumed in the Philippines.

### **Who shall be required to register for VAT?**

Any person who, in the course of trade or business, sells, barter, exchanges or leases goods or properties, including those digital in nature, or renders services, including digital services, shall be liable to register for VAT, if:

- 1) The gross sales for the past 12 months have exceeded Php 3 Million; or
- 2) There are reasonable grounds to believe that the gross sales for the next 12 months will exceed Php3 Million.

A resident DSP shall register in accordance with the ordinary procedures of the Bureau of Internal Revenue (BIR).

However, the BIR is required to establish a simplified automated registration system for NRDSPs.

### **Remittance of 12% VAT on Digital Services**

The new law imposes value-added tax equivalent to 12% of gross sales derived from the sale or exchange digital services. NRDSP shall not be allowed to claim creditable input tax.

A non-resident digital service provider required to be registered for value-added tax shall be liable for

the remittance of VAT on digital services that are consumed in the Philippines, if the consumers are non-VAT registered.

A VAT-registered taxpayer shall be liable to withhold and remit the VAT due on its purchase of digital services consumed in the Philippines from NRDSPs within 10 days following the end of the month the withholding was made.

If a VAT-registered NRDSP is classified as an online marketplace or e-marketplace, it shall also be liable to remit the VAT on the transactions of non-resident sellers that go through its platform, as long as it controls key aspects of the supply, and either (a) sets, either directly or indirectly, any of the terms and conditions under which the supply of the goods is made; or (b) it is involved in the ordering or delivery of goods, whether directly or indirectly.

### **Invoicing Requirements**

A digital sales or commercial invoice shall be issued for every sale, barter, or exchange of digital services made by a VAT-registered NRDSP. Such invoice shall contain the date of transaction, reference number, identification of the consumer, brief description of the transaction, and the total amount with the indication that such amount includes the VAT.

However, unlike other persons subject to VAT, VAT-registered NRDSPs are not required to maintain a subsidiary sales journal and subsidiary purchase journal.

### **Penalty**

The BIR is empowered to penalize failure to register with the blocking of digital services performed or rendered in the Philippines by a DSP. This shall be implemented by the Department of Information and Communications Technology (DICT), through the National Telecommunications Commission (NTC).

### **Transitory Provisions**

The implementing rules of this law shall be issued within 90 days from its effectivity, or 16 January 2025. Thereafter, NRDSPs shall be immediately be subject to VAT after 120 days from the effectivity of the such rules.

### **What should companies do?**

Persons and companies who are engaged in the business of selling or exchanging digital services, especially non-resident digital service providers, should closely monitor the issuance of the implementing rules for R.A. 12023. DSPs covered by this law are advised to ensure compliance with the forthcoming regulations, especially registration and timely remittance of taxes due, in order to avoid penalties that may be imposed by tax authorities.

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<Author>

	<p><b>Camille Himala (Attorney in the Philippines)</b></p> <p>Camille received her Juris Doctor degree from the University of the Philippines in 2018. She graduated in the top 10 of her class and was awarded the Dean's Medal for Academic Excellence. She is also a member of the Order of the Purple Feather (UP Law Honors Society). In 2022, Camille received a Japanese Government (MEXT) Scholarship for the Young Leaders Program (YLP) in Law. She earned her LL.M degree (Master of Laws) from Kyushu University in 2023. She joined One Asia Lawyers in 2023 and advises on Philippine laws relating to business establishment and investment, labor and employment, data privacy, and corporate law.</p> <p><a href="mailto:camille.himala@oneasia.legal">camille.himala@oneasia.legal</a></p>
	<p><b>Yasuaki Nanba</b>  <b>One Asia Lawyers – Osaka Office (Partner)</b>  <b>Lawyer (Japan)</b></p> <p>He handles all aspects of corporate legal affairs, including personnel and labor matters, dispute resolution, intellectual property, and insolvency cases for a wide range of companies in Japan, from small and medium-sized enterprises to publicly listed companies. For individual clients, he handles a wide range of general civil cases, including labor disputes, traffic accidents, divorces, and inheritances related cases, as well as criminal cases, including disclosure of sender's information posted on the Internet and jury trials. In addition, he handles construction disputes such as construction defects and claims for additional contractor fees, as well as consultation and dispute cases from boards of directors and condominium unit owners concerning condominium management. In administrative matters, he has served as an advisor to the City of Osaka on debt management and collection, and has provided individual consultation and training on debt management and collection from local governments. He has also served as an assistant to a comprehensive external auditor for several years and has received an award for his utilization.</p> <p><a href="mailto:yasuaki.nanba@oneasia.legal">yasuaki.nanba@oneasia.legal</a></p>