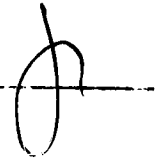


NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )

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**SENATE**

**S. No. 2528**

(In substitution of Senate Bill No. 250, taking into consideration House Bill No. 4122)

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Prepared by the Committee on Ways and Means with Senators  
Pia Cayetano and Gatchalian as authors

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**AN ACT**

**AMENDING SECTIONS 105, 108, 109, 110, 113, 114, 115, AND 236 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 the House of Representatives of the Philippines in  
Congress assembled:*

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

3 "SEC. 105. *Persons Liable.* – Any person who, in the course of  
4 trade or business, sells, barter, exchanges, leases goods or  
5 properties, renders services, **INCLUDING DIGITAL**  
6 **SERVICES**, and any person who imports goods shall be subject  
7 to the value-added tax (VAT) imposed in Sections 106 to 108 of  
8 this Code.

9 "The value-added tax is an indirect tax and the amount of tax  
10 may be shifted or passed on to the buyer, transferee or lessee of  
11 the goods, properties or services. This rule shall likewise apply to

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

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

10 "The rule of regularity, to the contrary notwithstanding, services  
11 as defined in this Code rendered in the Philippines by nonresident  
12 foreign persons shall be considered as being rendered in the  
13 course of trade or business: **PROVIDED, THAT DIGITAL**  
14 **SERVICES DELIVERED BY NONRESIDENT DIGITAL**  
15 **SERVICE PROVIDERS ARE CONSIDERED PERFORMED OR**  
16 **RENDERED IN THE PHILIPPINES IF THE DIGITAL**  
17 **SERVICES ARE CONSUMED IN THE PHILIPPINES."**

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

20 "SEC. 108. *Value-added Tax on Sale of Services, INCLUDING*  
21 **DIGITAL SERVICES, and THE Use or Lease of Properties.** –

22 "(A) *Rate and Base of Tax.* - There shall be levied, assessed and  
23 collected, a value-added tax equivalent to twelve percent (12%)  
24 of gross receipts derived from the sale or exchange of services,  
25 including **DIGITAL SERVICES, AND** the use or lease of  
26 properties.

27 "The phrase *'sale or exchange of services'* means the  
28 performance of all kinds of services in the Philippines for others  
29 for a fee, remuneration or consideration, including those  
30 performed or rendered by construction and service contractors;  
31 stock, real estate, commercial, customs and immigration brokers;

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

26 "(1) x x x;

27 "(2) x x x;

28 "(3) x x x;

29 "(4) x x x;

30 "(5) x x x;

31 "(6) x x x;

1                   **“(7) THE SUPPLY OF DIGITAL SERVICES;**

2                   **“([7]8) The lease of motion picture films, films, tapes and**  
3                   discs; and

4                   **“([8]9) The lease or the use of or the right to use radio,**  
5                   television, satellite transmission and cable television time.

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

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

17                  “x x x.”

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

21                  **“SEC. 108–A. PERSONS LIABLE IN THE PROVISION OF**  
22                  ***DIGITAL SERVICES.* – THE DIGITAL SERVICE PROVIDER,**  
23                  **WHETHER RESIDENT OR NONRESIDENT, SHALL BE**  
24                  **LIABLE FOR ASSESSING, COLLECTING, AND REMITTING**  
25                  **THE VALUE-ADDED TAX ON THE DIGITAL SERVICES**  
26                  **CONSUMED IN THE PHILIPPINES, SUBJECT TO THE**  
27                  **PROVISION ON WITHHOLDING OF VALUE-ADDED TAX**  
28                  **ON DIGITAL TRANSACTIONS UNDER SECTION 114(D).**

29                  **“WHEN USED IN THIS TITLE:**

30                  **“(A) THE TERM ‘*DIGITAL SERVICE*’ SHALL REFER TO ANY**  
31                  **SERVICE THAT IS SUPPLIED OVER THE INTERNET OR**

1 OTHER ELECTRONIC NETWORK WITH THE USE OF  
2 INFORMATION TECHNOLOGY AND WHERE THE SUPPLY  
3 OF THE SERVICE IS ESSENTIALLY AUTOMATED. DIGITAL  
4 SERVICES SHALL INCLUDE, BUT NOT LIMITED TO:

5 "(1) ONLINE SEARCH ENGINE;

6 "(2) ONLINE MARKETPLACE OR E-MARKETPLACE;

7 "(3) CLOUD SERVICE;

8 "(4) ONLINE MEDIA AND ADVERTISING;

9 "(5) ONLINE PLATFORM; OR

10 "(6) DIGITAL GOODS.

11 "(B) THE TERM '*DIGITAL SERVICE PROVIDER*' REFERS TO  
12 A RESIDENT OR NONRESIDENT SUPPLIER OF DIGITAL  
13 SERVICES TO A CONSUMER WHO CONSUMES DIGITAL  
14 SERVICES SUBJECT TO VALUE-ADDED TAX IN THE  
15 PHILIPPINES.

16 "(C) THE TERM '*NONRESIDENT DIGITAL SERVICE*  
17 *PROVIDER*' MEANS A DIGITAL SERVICE PROVIDER THAT  
18 HAS NO PHYSICAL PRESENCE IN THE PHILIPPINES."

19 Sec. 4. A new section designated as Section 108-B under Chapter 1, Title IV,  
20 of the National Internal Revenue Code of 1997, as amended, is hereby inserted to  
21 read as follows:

22 "**SEC. 108-B. LIABILITY OF A NONRESIDENT DIGITAL**  
23 ***SERVICE PROVIDER.* – A NONRESIDENT DIGITAL**  
24 **SERVICE PROVIDER REQUIRED TO BE REGISTERED FOR**  
25 **VAT UNDER SECTION 236(G) OF THIS CODE SHALL BE**  
26 **LIABLE FOR THE REMITTANCE OF VALUE-ADDED TAX ON**  
27 **THE DIGITAL SERVICES THAT ARE CONSUMED IN THE**  
28 **PHILIPPINES IF THE CONSUMERS ARE NON-VAT**  
29 **REGISTERED: *PROVIDED*, THAT IF THE CONSUMERS ARE**  
30 **VAT-REGISTERED, THE PROVISION OF SECTION 114(D)**  
31 **SHALL APPLY.**

1           **"IF A VAT-REGISTERED NONRESIDENT DIGITAL**  
2           **SERVICE PROVIDER IS CLASSIFIED AS AN ONLINE**  
3           **MARKETPLACE OR E-MARKETPLACE, IT SHALL ALSO BE**  
4           **LIABLE TO REMIT THE VALUE-ADDED TAX ON THE**  
5           **TRANSACTIONS OF NONRESIDENT SELLERS THAT GO**  
6           **THROUGH ITS PLATFORM: *PROVIDED*, THAT IT**  
7           **CONTROLS KEY ASPECTS OF THE SUPPLY, AND**  
8           **PERFORMS ANY OF THE FOLLOWING:**

9                   **"A. IT SETS, EITHER DIRECTLY OR INDIRECTLY,**  
10                   **ANY OF THE TERMS AND CONDITIONS UNDER**  
11                   **WHICH THE SUPPLY OF GOODS IS MADE; OR**

12                   **"B. IT IS INVOLVED IN THE ORDERING OR**  
13                   **DELIVERY OF THE GOODS, WHETHER DIRECTLY OR**  
14                   **INDIRECTLY."**

15           Sec. 5. Section 109 of the National Internal Revenue Code, as amended, is  
16 further amended to read as follows:

17                   "SEC. 109. *Exempt Transactions.* –

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

20                   "(A) x x x

21                   "(B) x x x

22                   "(C) x x x

23                   "(D) x x x

24                   "(E) x x x

25                   "(F) x x x

26                   "(G) x x x

27                   "(H) Educational services **INCLUDING ONLINE COURSES,**  
28                   **ONLINE SEMINARS, AND ONLINE TRAININGS** rendered  
29 by private educational institutions, duly accredited by the  
30 Department of Education (~~[DepED]~~**DEPED**), the Commission on  
31 Higher Education (CHED), the Technical Education and Skills

1 Development Authority (TESDA), and those rendered by  
2 government educational institutions; **AND SALE OF ONLINE**  
3 **SUBSCRIPTION-BASED SERVICES TO DEPED, CHED,**  
4 **TESDA, AND EDUCATIONAL INSTITUTIONS**  
5 **RECOGNIZED BY SAID GOVERNMENT AGENCIES;**

6 "(I) x x x

7 "(J) x x x

8 "(K) x x x

9 "(L) x x x

10 "(M) x x x

11 "(N) x x x

12 "(O) x x x

13 "(P) x x x

14 "(Q) x x x

15 "(R) x x x

16 "(S) x x x

17 "(T) x x x

18 "(U) x x x

19 "(V) Services of bank, non-bank financial intermediaries  
20 performing quasi-banking functions, and other non-bank  
21 financial intermediaries, **INCLUDING THOSE RENDERED**  
22 **THROUGH THE DIFFERENT DIGITAL PLATFORMS;**

23 "x x x."

24 Sec. 6. Section 110 of the National Internal Revenue Code, as amended, is  
25 further amended to read as follows:

26 "SEC. 110. *Tax Credits.* –

27 "A. *Creditable Input Tax.* –

28 "(1) x x x

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

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

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

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

24                  **“NOTWITHSTANDING THE FOREGOING, NONRESIDENT**  
25                  **DIGITAL SERVICE PROVIDERS SHALL NOT BE ALLOWED**  
26                  **TO CLAIM CREDITABLE INPUT TAX.**

27                  “x x x.”

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

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



1           “(A) *Invoicing Requirements.* – A VAT-registered person shall  
2 issue:

3           “(1) x x x

4           “(2) x x x

5           **“(3) A DIGITAL SALES OR COMMERCIAL INVOICE**  
6           **FOR EVERY SALE, BARTER, OR EXCHANGE OF**  
7           **DIGITAL SERVICES MADE BY A VAT-REGISTERED**  
8           **NONRESIDENT DIGITAL SERVICE PROVIDER.**

9           “(B) *Information Contained in the VAT Invoice or VAT Official*  
10 *Receipt.* – x x x

11           “(1) x x x

12           “(2) x x x

13           “(3) x x x

14           “(4) x x x

15           **“(5) THE DIGITAL SALES OR COMMERCIAL**  
16           **INVOICE ISSUED BY A VAT-REGISTERED**  
17           **NONRESIDENT DIGITAL SERVICE PROVIDER**  
18           **SHALL INDICATE THE FOLLOWING INFORMATION**  
19           **IN LIEU OF THE REQUIREMENTS UNDER SECTION**  
20           **113 SUBSECTION (B) PARAGRAPHS 1 TO 4:**

21                   **(A) DATE OF THE TRANSACTION;**

22                   **(B) TRANSACTION REFERENCE NUMBER;**

23                   **(C) IDENTIFICATION OF THE CONSUMER;**

24                   **(D) BRIEF DESCRIPTION OF THE**  
25                   **TRANSACTION;**

26                   **(E) THE TOTAL AMOUNT WITH THE**  
27                   **INDICATION THAT SUCH AMOUNT**  
28                   **INCLUDES THE VALUE-ADDED TAX; AND**

29                   **(F) IF THE SALE OF DIGITAL SERVICES**  
30                   **INCLUDE SOME SERVICES WHICH ARE**  
31                   **SUBJECT TO VAT, AND SOME THAT ARE VAT**

1                   **ZERO-RATED OR VAT EXEMPT, THE INVOICE**  
2                   **OR RECEIPT SHALL CLEARLY INDICATE THE**  
3                   **BREAK-DOWN OF THE SALE PRICE BETWEEN**  
4                   **ITS TAXABLE, EXEMPT, ZERO-RATED, AND**  
5                   **COMPONENTS SUBJECT TO VALUE-ADDED**  
6                   **TAX: *PROVIDED*, THAT THE CALCULATION**  
7                   **OF THE VALUE-ADDED TAX ON EACH**  
8                   **PORTION OF THE SALE SHALL BE SHOWN ON**  
9                   **THE INVOICE.**

10                   “(C) *Accounting Requirements.* – Notwithstanding the provisions  
11                   of Section 233, all persons subject to the value-added tax under  
12                   Sections 106 and 108 shall, in addition to the regular accounting  
13                   records required, maintain a subsidiary sales journal and  
14                   subsidiary purchase journal on which the daily sales and  
15                   purchases are recorded. The subsidiary journals shall contain  
16                   such information as may be required by the Secretary of Finance:  
17                   ***PROVIDED, THAT THIS SUBSECTION SHALL NOT APPLY***  
18                   ***TO VAT-REGISTERED NONRESIDENT DIGITAL SERVICE***  
19                   ***PROVIDERS.***

20                   “(D) x x x

21                   “(E) x x x.”

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

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

25                   “(A) *In General.* – x x x

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

27                   “(C) *Withholding of Creditable Value-Added Tax.* – The  
28                   Government or any of its political subdivisions, instrumentalities  
29                   or agencies, including government-owned or -controlled  
30                   corporations (GOCCs) shall, before making payment on account  
31                   of each purchase of goods and services which are subject to the

1 value-added tax imposed in Sections 106 and 108 of this Code,  
2 deduct and withhold the value-added tax imposed in Sections 106  
3 and 108 of this Code, deduct and withhold a final value-added  
4 tax at the rate of five percent (5%) of the gross payment thereof:  
5 *Provided*, That beginning January 1, 2021, the VAT withholding  
6 system under this subsection shall shift from final to a creditable  
7 system: *Provided, further*, That the payment for lease or use of  
8 properties or property rights to nonresident owners **AND**  
9 **PAYMENTS FOR SERVICES TO NONRESIDENT SUPPLIERS**  
10 **WHO ARE NOT REGISTERED UNDER SECTION 236**, shall  
11 be subject to twelve percent (12%) withholding tax at the time  
12 of payment: *Provided, finally*, That payments for purchases of  
13 goods and services arising from projects funded by Official  
14 Development Assistance (ODA) as defined under Republic Act No.  
15 8182, otherwise known as the 'Official Development Assistance  
16 Act of 1996' as amended, shall not be subject to the final  
17 withholding tax system as imposed in this Subsection. For  
18 purposes of this Section, the payor or person in control of the  
19 payment shall be considered as the withholding agent.

20 "The value-added tax withheld under this Section shall be  
21 remitted within ten (10) days following the end of the month the  
22 withholding was made.

23 **"(D) REVERSE CHARGE MECHANISM IN DIGITAL**  
24 **SERVICES. – A VAT-REGISTERED TAXPAYER SHALL BE**  
25 **LIABLE TO WITHHOLD AND REMIT TO THE BUREAU OF**  
26 **INTERNAL REVENUE, WITHIN TEN (10) DAYS**  
27 **FOLLOWING THE END OF THE MONTH THE**  
28 **WITHHOLDING WAS MADE, THE VALUE-ADDED TAX DUE**  
29 **ON ITS PURCHASES OF DIGITAL SERVICES CONSUMED**  
30 **IN THE PHILIPPINES FROM NONRESIDENT DIGITAL**  
31 **SERVICE PROVIDERS."**

1           Sec. 9. Section 115 of the National Internal Revenue Code (NIRC) of 1997, as  
2 amended, is hereby further amended to read as follows:

3           "SEC. 115. *Power of the Commissioner to Suspend the Business*  
4           *Operations of a Taxpayer.* – x x x

5           "(a) x x x

6           "(b) x x x

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

11           **"THE POWER OF THE COMMISSIONER TO SUSPEND**  
12           **SHALL INCLUDE THE BLOCKING OF DIGITAL SERVICES**  
13           **PROVIDED TO THE PHILIPPINES BY A DIGITAL SERVICE**  
14           **PROVIDER. THIS SHALL BE IMPLEMENTED BY THE**  
15           **DEPARTMENT OF INFORMATION AND**  
16           **COMMUNICATIONS TECHNOLOGY (DICT), THROUGH**  
17           **THE NATIONAL TELECOMMUNICATIONS COMMISSION**  
18           **(NTC)."**

19           Sec. 10. Section 236 of the National Internal Revenue Code (NIRC) of 1997, as  
20 amended, is hereby further amended to read as follows:

21           "SEC. 236. *Registration Requirements.* -

22           "(A) x x x

23           "(B) x x x

24           "(C) x x x

25           "(D) x x x

26           "(E) x x x

27           "(F) x x x

28           "(G) *Persons Required to Register for Value-Added Tax.* -

29           "(1) Any person who, in the course of trade or business,  
30 sells, barter, exchanges, **LEASES** goods or properties,  
31           **INCLUDING THOSE DIGITAL IN NATURE, ANY**

1                   **PERSON WHO RENDERS SERVICES, INCLUDING**  
2                   **DIGITAL SERVICES**, or engages in the sale or exchange  
3 of services, shall be liable to register for value-added tax  
4 if:

5                   “(a) His gross sales or receipts for the past twelve (12)  
6 months, other than those that are exempt under Section  
7 109(A) to ([BB]CC), have exceeded Three million pesos  
8 (P3,000,000); or

9                   “(b) There are reasonable grounds to believe that his gross  
10 sales or receipts for the next twelve (12) months, other  
11 than those that are exempt under Section 109(A) to  
12 ([BB]CC), will exceed Three million pesos (P3,000,000).

13                   **“PROVIDED, THAT THE BIR SHALL ESTABLISH A**  
14                   **SIMPLIFIED AUTOMATED REGISTRATION SYSTEM**  
15                   **FOR NONRESIDENT DIGITAL SERVICE**  
16                   **PROVIDERS, WHICH SHALL BE PRESCRIBED BY**  
17                   **THE SECRETARY OF FINANCE, UPON THE**  
18                   **RECOMMENDATION OF THE COMMISSIONER OF**  
19                   **INTERNAL REVENUE.**

20                   “x x x”

21                   Sec. 11. *Mode of Correspondence.* – Any communication, notice, or summons  
22 to a nonresident digital service provider can be made via electronic mail messaging.

23                   Sec. 12. *Transitory Clause.* – Nonresident digital service providers shall  
24 immediately be subject to value-added tax under this Act after one hundred twenty  
25 (120) days from the effectivity of the implementing rules and regulations.

26                   Sec. 13. *Implementing Rules and Regulations.* – The Department of Finance  
27 (DOF), upon the recommendation of the BIR, and in coordination with the DICT and  
28 the NTC, and upon consultation with the stakeholders, shall issue rules and regulations  
29 for the effective implementation of this Act not later than ninety (90) days from the  
30 effectivity of this Act.

1            *Sec. 14. Separability Clause.* – Should any provision of this Act or any part  
2 thereof be declared invalid, the other provisions, so far as they are separable from the  
3 invalid ones, shall remain in force and effect.

4            *Sec. 15. Repealing Clause.* – All laws, decrees, orders, and issuances, or  
5 portions thereof, which are inconsistent with the provisions of this Act, are hereby  
6 repealed, amended, or modified accordingly.

7            *Sec. 16. Effectivity.* – This Act shall take effect fifteen (15) days after its  
8 publication in the Official Gazette or in a newspaper of general circulation.

*Approved,*