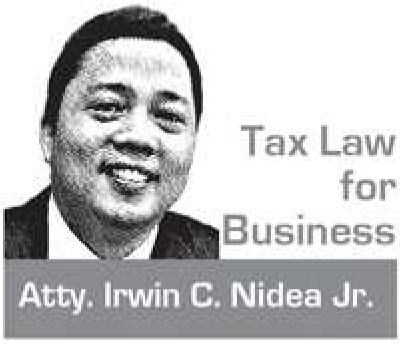

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Online sale

THE Internet world, with its vastness, remains an enigma to the tax authorities. You can buy anything through the Internet, with millions of online stores to choose from. Most of these transactions are taxable, yet the Bureau of Internal Revenue (BIR) is helpless in tracking and monitoring them.

There are reports that the BIR has decided to draft regulations to tax the rapidly growing online sales of goods and services. Some online transactions include online retailing, online intermediary service, online auction and online advertisement.

In online retailing, consumers directly buy goods or services from a seller without a middle man. In online auction, the seller sells the product or service to the highest bidder. Online advertisements are promotions that use the Internet to attract customers and market their products. In all these transactions, the consumer usually pays through the Internet, by using his credit card. There are instances when payments are made through the banking system, through money transfer or even in person.

It is true that online stores are not different from a traditional store inside the mall. But in order to properly tax them, the BIR has to find a way to track this virtual market and contend with some legal issues on situs and compliance.

When the buyer and the seller are both in the Philippines, there is no issue as to the taxability of the transaction since the income is sourced in the Philippines. The sale is subject to income tax and generally to value-added tax (VAT). But whether tax payments were properly made can only be monitored by the BIR if the online seller has registered its business with the BIR, which is very unlikely.

Taxation of online transactions becomes more difficult when either the buyer or the seller, is outside the Philippines. The issue on where the sale actually took place will arise and whether the transaction is taxable at all.

A non-resident of the Philippines who transacts his business through his Internet but does not keep or maintain any place of business within the Philippines is not considered as having a situs in the Philippines. The income is not considered sourced from the Philippines and, therefore, is not subject to income tax. As regards VAT, however, the goods purchased will be imported and will pass a port of entry in the Philippines and will, therefore, be subjected to VAT on importation. If the goods or services purchased are intangible, the buyer is supposed to withhold the corresponding tax before paying the net amount to the non-resident seller.

Just like a traditional store that issues receipts and keeps its books of accounts, there are ways to monitor the reporting and remittance of tax of online sellers. Purchases from non-residents and the respective taxes are expected to be recorded in a Philippine company's books. Unfortunately, however, this is only true if the Philippine company has registered its business with the BIR.

Tax-collection problems arise in the case of online importation of goods by consumers who are not registered with the BIR. There is no way by which the BIR may know of the transaction because end-consumers who are not engaged in business do not keep books of accounts, nor are they registered with the Department of Trade and Industry, Security Exchange Commission or other government agencies.

The BIR must be able to adapt to the changing times. Internet sale is the new black market, which the BIR must be able to tap. It seems impossible, though, to search through every sale that happens in the Internet and impose the tax laws on them. But if properly monitored, online sale may be a gold mine in revenue collection.

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