



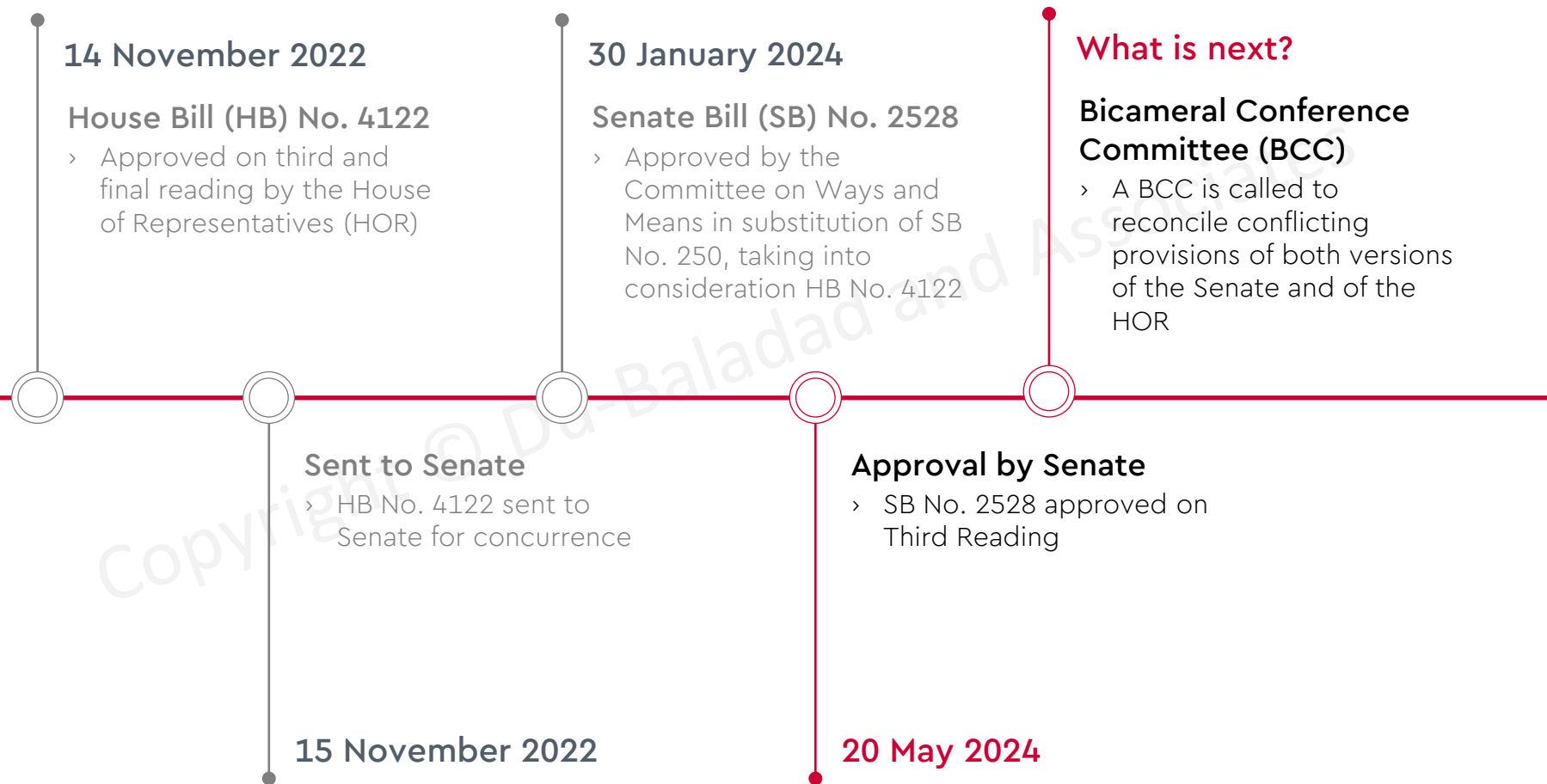
DIGITAL TAX WATCH PHILIPPINES

BDB Law
DU-BALADAD AND ASSOCIATES

Third Issue – SENATE BILL NO. 2528
Amendments to the Imposition
of VAT for Digital Transactions

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Legislative Process: Where are we and what is next?



Features of the SB No. 2528

- ☑ Express inclusion of digital services as a VATable transaction;
- ☑ Identification of persons liable for the VAT on digital services;
- ☑ Liabilities of a nonresident digital service providers and expanded liability of online market place or e-marketplace operators;
- ☑ Invoicing and accounting requirements for digital sales;
- ☑ Power of the BIR to suspend business operations by blocking of digital services; and
- ☑ Registration requirements
- ☑ In the version approved by the Senate, the references to the NIRC were updated to take into account the changes brought by the Ease of Paying Taxes Act

Contents of Senate Bill No. 2528

I. Persons Liable

Any person who, in the course of trade or business:

- ☑ Sells, barter, exchanges, leases goods or properties, **including digital services**;
- ☑ Renders services, including those rendered electronically.



Digital services delivered by nonresident digital service providers are considered performed or rendered in the Philippines if the digital services are **consumed in the Philippines**.



The **digital service provider, whether resident or nonresident**, is liable for assessing, collecting, and remitting the VAT on digital services consumed in the Philippines.

Contents of Senate Bill No. 2528

I. Persons Liable

Definition of Terms:

Digital Service – Any service supplied over the internet or other electronic network and with the use of IT and where the supply of the service is essentially automated. It shall include, but not limited to:

- ✓ Online search engine
- ✓ Online marketplace/e-marketplace
- ✓ Cloud service
- ✓ Online media and advertising
- ✓ Online platform
- ✓ Digital goods

Digital Service Provider (DSP) – A resident or nonresident supplier of digital services to a consumer who consumes digital services subject to VAT in the Philippines.

Nonresident Digital Service Provider (NDSP) – A DSP that has no physical presence in the Philippines.

Contents of Senate Bill No. 2528

II. Liability of Nonresident Digital Service Provider

NDSPs required to be registered for VAT under Section 236(F)

For digital services consumed in the Philippines by:

- ☑ Non-VAT registered consumers – NDSPs shall be liable for the remittance of VAT; or
- ☑ VAT-registered consumers – reverse charge mechanism shall apply.

Online marketplace or e-marketplace

Also liable to remit VAT on transactions of nonresident sellers provided that it controls key aspects of the supply and:

- ☑ directly or indirectly sets any of the terms and conditions under which the supply of goods is made; or
- ☑ is involved in the ordering or delivery of goods, whether directly or indirectly

Contents of Senate Bill No. 2528

III. Exempt Transactions

Specific transactions exempt from VAT are amended as follows:



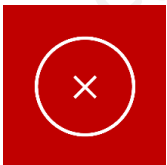
Educational services now include:

- ✓ Accredited online courses, seminars, and trainings; and
- ✓ Sale of online subscription-based services to DEPED, CHED, TESDA, and educational institutions recognized by the said government agencies.



Services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries now include those rendered through the different digital platforms

IV. Tax Credits



NDSPs are **not allowed** to claim creditable input tax.

Contents of Senate Bill No. 2528

V. Invoicing and Accounting Requirements



VAT-registered NDSPs must issue a digital invoice which shall indicate the following (*in lieu of other invoicing requirements*):

- ☑ Date of the transaction;
- ☑ Transaction reference number;
- ☑ Identification of the customer;
- ☑ Brief description of the transaction;
- ☑ Total amount with indication that it includes VAT; and
- ☑ Break-down of sales price between the taxable, zero-rated, and exempt components, if any, with a calculation of the VAT on each portion.

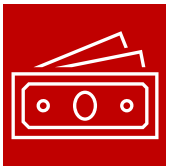
Contents of Senate Bill No. 2528

V. Invoicing and Accounting Requirements



VAT-registered NDSPs are **not required** to maintain regular accounting records and subsidiary journals.

VI. Return and Payment of VAT



Government payments for services to nonresident suppliers who are not registered shall be subject to 12% withholding VAT at the time of payment.



VAT-registered taxpayers are required to withhold and remit the VAT due on its purchases of digital services consumed in the Philippines from NDSP within 10 days following the end of the month when the withholding was made (**Reverse Charge Mechanism**).

Contents of Senate Bill No. 2528

VII. Suspension of Business Operations



The Commissioner of Internal Revenue's power to suspend business operations shall include the **blocking of digital services to the Philippines** by a digital service provider (*implemented by the DICT through the NTC*).

VIII. Registration Requirements



The following persons are now required to register for VAT purposes:

- ✓ Persons who lease goods or properties, including those digital in nature; and
- ✓ Persons who render services, including digital services.



A **simplified automated registration system** shall be established for NDSP.

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