

ADVISORY ON DIGITAL SERVICES TAX

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REPUBLIC ACT NO. 12023
Imposition of Value-Added Tax on
Digital Services

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Imposition of Value-Added Tax on Digital Services

Key Features

- ☑ Express inclusion of digital services as a VATable transaction
- ☑ Setting of liabilities of digital services providers, both resident and nonresident, as well as online marketplace/e-marketplace operators on the assessment, collection, and remittance of VAT
- ☑ Invoicing and accounting requirements for digital sales
- ☑ Registration requirements
- ☑ Penalty to be imposed in case of non-compliance

Definition of Terms

Terminology	Definition
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: <ul style="list-style-type: none">☑ Online search engine☑ Online marketplace/e-marketplace☑ Cloud service☑ Online media 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

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ADVISORY

Digital Service as a VATable Transaction

- ☑ Sale of services for purposes of imposition of VAT **includes digital services.**
- ☑ For digital services rendered by NDSPs, it shall be considered as performed/rendered in the Philippines if the **digital services are consumed in the Philippines.**
- ☑ NDSPs shall **not be allowed to claim creditable input tax.**

Liability of Persons Providing Digital Services

- ☑ Any person providing digital services is required to **register for VAT purposes.** The BIR shall establish a **simplified automated registration system** for NDSPs.
- ☑ Whether resident or nonresident, DSPs shall be liable for **assessing, collecting, and remitting** VAT.
- ☑ Special rules for NDSPs:

Condition	Rule
If the consumers are non-VAT registered	NDSPs shall be liable for the remittance of VAT
If the consumers are VAT registered	Reverse charge mechanism shall apply
If the NDSP is an online marketplace/e-marketplace	NDSP shall be liable to remit the VAT on the transactions of its nonresident sellers, provided it: <ul style="list-style-type: none">☑ Performs key aspects of the supply; and☑ Performs any of the following, either directly or indirectly:<ul style="list-style-type: none">➤ Sets any of the terms and conditions under which the supply of goods is made; or➤ Involved in ordering or delivery of goods.

Reverse Charge Mechanism

- ☑ VAT-registered taxpayers are required to **withhold and remit** the VAT due on its purchases of digital services from NDSPs within 10 days following the end of the month when the withholding was made.

Exempt Transactions

- ☑ VAT exemption for educational services now include:
 - **Online courses, seminars, and trainings** rendered by: i) private educational institutions duly accredited by DEPED, CHED, and TESDA; and ii) government educational institutions; 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, **including those rendered through the different digital platforms**, are also exempted from VAT

Invoicing and Accounting Requirements

- ☑ A VAT-registered NDSP shall issue digital sales/commercial invoice for every digital service rendered. However, it is not required to maintain regular accounting records and subsidiary journals.
- ☑ The digital sales/commercial invoice shall indicate the following (*in lieu of the 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.
- ☑ For digital services which may be subject to 12% VAT, 0% VAT, or VAT-Exempt, the invoice shall clearly indicate the breakdown of the sales price of each component. Further, the calculation of VAT on each portion shall be shown in the invoice.

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Government Payments

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

Suspension of Business Operations

- ☑ The Commissioner of Internal Revenue's (CIR) 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).

Miscellaneous Provisions

- ☑ 5% of the incremental revenues from VAT on DSPs shall be allocated to and exclusively used for the development of the creative industries for 5 years from the effectivity of the law.
- ☑ Withholding of Percentage Taxes may be imposed by the Secretary of Finance upon recommendation of the CIR.

Transitory Provision and Implementing Rules and Regulations

- ☑ NDSPs shall immediately be subject to VAT after 120 days from the effectivity of the implementing rules and regulations.
- ☑ The implementing rules and regulations shall be issued not later than 90 days from the effectivity of this law.

Source: Republic Act No. 12023