

Asia Internet Coalition (AIC) Industry Submission on the Amendment to National Internal Revenue Code - Value Added Tax (VAT) on Digital Services

7 June 2024

To the
Senator Sherwin Gatchalian

On behalf of the [Asia Internet Coalition](#) (AIC) and its members, I am writing to express our views and recommendations on the **Amendment to National Internal Revenue Code - Value Added Tax (VAT) on Digital Services (Senate Bill No. 2528, taking into consideration House Bill No. 4122)**. AIC is an industry association of leading internet and technology companies in the Asia Pacific region with a mission to promote the understanding and resolution of Internet and ICT policy issues in the Asia region. Below are some of the key issues and recommendations, for your consideration.

1.

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

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

Comment:

The Ease of Paying Taxes (EOPT) Act has amended the base of tax for sales of services from “gross receipts” to “gross sales”. This amendment aims to align the tax base with common industry terminology and international tax standards, thereby promoting consistency and simplification in tax reporting. By adopting the term “gross sales” as the basis for taxation, the EOPT Act provides a clearer definition of taxable transactions, ensuring that all relevant revenue generated from the provision of services is appropriately accounted for. This adjustment facilitates more accurate tax calculations and compliance, reducing the risk of misinterpretation and disputes between taxpayers and tax authorities.

2.

Section 108

IF A VAT-REGISTERED NONRESIDENT DIGITAL SERVICE PROVIDER IS CLASSIFIED AS AN ONLINE MARKETPLACE OR E-MARKETPLACE, IT SHALL ALSO BE LIABLE TO REMIT THE VALUE-

ADDED TAX ON THE TRANSACTIONS OF NONRESIDENT SELLERS THAT GO THROUGH ITS PLATFORM: PROVIDED, THAT IT CONTROLS KEY ASPECTS OF THE SUPPLY, AND PERFORMS ANY OF THE FOLLOWING:

- A. IT SETS, EITHER DIRECTLY OR INDIRECTLY, ANY OF THE TERMS AND CONDITIONS UNDER WHICH THE SUPPLY OF GOODS IS MADE; OR
- B. IT IS INVOLVED IN THE ORDERING OR DELIVERY OF THE GOODS, WHETHER DIRECTLY OR INDIRECTLY.

Comment

In order to ensure clarity regarding the application of Value-Added Tax (VAT) on non-resident digital service providers operating as online marketplaces or e-marketplaces, we recommend the following provision. The wordings of this provision should be clear and limited only to the digital service fees in relation to the sale of goods into the Philippines and not taxed on the sale of goods itself since any sale of goods would be subject to the applicable import taxes/duties.

IF A VAT-REGISTERED NONRESIDENT DIGITAL SERVICE PROVIDER IS CLASSIFIED AS AN ONLINE MARKETPLACE OR E-MARKETPLACE **SELLING INTO THE PHILIPPINES**, IT SHALL ALSO BE LIABLE TO REMIT THE VALUE-ADDED TAX ON THE **DIGITAL SERVICE** TRANSACTIONS **FEES** OF NONRESIDENT SELLERS THAT GO THROUGH ITS PLATFORM: PROVIDED, THAT IT CONTROLS KEY ASPECTS OF THE SUPPLY OF GOODS **INTO THE PHILIPPINES**, AND PERFORMS ANY OF THE FOLLOWING:

- A. IT SETS, EITHER DIRECTLY OR INDIRECTLY, ANY OF THE TERMS AND CONDITIONS UNDER WHICH THE SUPPLY OF GOODS **INTO THE PHILIPPINES** IS MADE; OR
- B. IT IS INVOLVED IN THE ORDERING OR DELIVERY OF THE GOODS **INTO THE PHILIPPINES**, WHETHER DIRECTLY OR INDIRECTLY.

This recommendation aims to clearly define the scope of VAT liability to include only the digital service transaction fees associated with the sale of goods into the Philippines. It distinguishes these fees from the sale of goods themselves, which remain subject to the applicable import taxes and duties. This approach ensures that there is no double taxation on the sale of goods and provides clear guidance to non-resident digital service providers regarding their VAT obligations.

As responsible stakeholders, we appreciate the ability to participate in this ongoing discussion and the opportunity to provide further inputs into the policy-making process in the Philippines.

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact me directly at Secretariat@aicasia.org or +65 8739 1490.

Thank you for your time and consideration and we look forward to hearing from you.



Sincerely,
Jeff Paine
Managing Director
Asia Internet Coalition (AIC)