

Tax in a dot

Implementing the VAT on Digital Services Act



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Carlo Navarro

Country Tax & Legal Leader
SEA Transfer Pricing Leader
canavarro@deloitte.com

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TAX 2025-07

Implementing the VAT on Digital Services Act

Revenue Regulations (RR) No. 3-2025, implementing the provisions of Republic Act No. 12023 imposing value-added tax (VAT) on supply of digital services, was posted on 17 January 2025 on the Bureau of Internal Revenue (BIR) website.

In brief:

- **VAT rate:** 12% VAT will be imposed on all digital services consumed in the Philippines, regardless of whether the Digital Service Provider (DSP) has a physical presence in the country.
- **Scope:** The VAT applies to both resident DSPs (RDSPs) and non-resident DSPs (NDSPs).

- **Registration requirements:** RDSPs and NDSPs shall register with the BIR following the prescribed period and policies under Section 236 of the Tax Code and other existing relevant laws, rules, and regulations.
- **Local third-party representative:** The BIR will allow NDSPs to appoint local third-party representatives to handle administrative matters.
- **Transitory period:** All NDSPs must register with the BIR by 2 April 2025 through the VDS Portal. On 1 June 2025, all NDSPs will be subject to VAT.
- **Penalties for non-compliance:** Non-compliance may result in penalties, including the suspension of business operations in the Philippines.

Read on for more information.

RR 3-2025 explained

Under RR 3-2025, a 12% VAT shall be levied, assessed, and collected on the gross sales derived by a Digital Service Provider (DSP) from its sale or exchange of services in the Philippines pursuant to Section 108 of the National Internal Revenue Code of 1997, as amended (Tax Code). The phrase “sale or exchange of services” **includes** the supply or delivery of digital services by DSPs in the Philippines.

Digital services provided by a non-resident DSP (NDSP) shall be considered performed, rendered, supplied, or delivered in the Philippines in the course of trade or business if such digital services are consumed/used in the Philippines. Hence, gross sales received by an NDSP from the same shall be subject to 12% VAT. For this purpose, digital services are considered consumed/used in the Philippines if the consumer/user is located in the Philippines, where payment information, resident information, access information, or any other information to establish the most reliable determination of the buyer’s location, can be used to determine such.

- (A) RDSPs shall register with the BIR following the policies and procedures under Section 236 of the Tax Code and other existing relevant laws, rules, and regulations.
- (B) NDSPs shall register with the BIR within the period prescribed under Section 236 of the Tax Code through the VAT on Digital Services (VDS) Portal and submit the prescribed information therein. Moreover, NDSPs need not have a local representative in the Philippines as they are allowed to appoint a resident third-party service provider for purposes of receiving notices, record keeping, filing of tax returns, and other reporting obligations. The NDSP is required to notify the BIR in writing of the appointed service provider within 30 calendar days from the date of appointment. Said appointment shall not classify the NDSP as a non-resident foreign corporation doing business in the Philippines.

(A) VAT-registered RDSP

The VAT-registered RDSP, whether its consumer/user is engaged or not engaged in business, shall file the VAT return and pay the VAT due thereon.

However, if the RDSP is classified as an e-marketplace with non-resident participating merchant/seller, it shall also be required to withhold the 12% VAT due on the gross sales received by its non-resident participating merchant/seller related to the sale of digital services consumed/used in the Philippines.

(B) VAT-registered NDSP

(1) B2B transaction

The persons/consumers engaged in business shall be liable for: (i) electronically filing the required remittance return; and (ii) withholding and remitting the 12% VAT due on its purchase of digital services consumed/used in the Philippines within 10 days following the end of the month the withholding was made. The withheld VAT shall be considered input VAT/part of cost/expense on the part of the withholding buyer.

(2) B2C transaction

The VAT-registered NDSP shall be directly liable for: (i) electronically filing the VAT return; and (ii) paying the VAT due thereon through simplified pay-only regime in the VDS portal based on its gross sales related to the sale of digital services consumed/used in the Philippines within 25 days following the close of each taxable quarter. The same rule applies to an NDSP classified as an e-marketplace. The NDSP will be liable to pay the 12% VAT due on the gross sales received by its non-resident participating merchant/seller related to the sale of digital services consumed/used in the Philippines.

In preparing the relevant tax returns and payment/remittance of taxes, DSPs and the Philippine buyers are required to determine whether its contracting party is engaged in business or not. Both parties may rely on the documents and/or information submitted and shall be absolved from any tax liability, absence any fraud or negligence on the part of such relying party.

In any case where a DSP, acting in good faith and having made reasonable efforts to obtain the appropriate evidence, is unable to establish the status of its buyer, it shall be presumed that its buyer is not engaged in trade or business, in which case, the DSP shall be obliged to file the tax return and remit/pay the tax due, pursuant to the prescribed rules and procedures above.

(3) Unregistered NDSPs

(A) In a B2B transaction, such persons/consumers engaged in business, including the Government or any of its political subdivisions, shall be liable for: (i) electronically filing the required remittance return; and (ii) withholding and remitting the 12% VAT due on its purchase of digital services consumed in the Philippines to the BIR within 10 days following the end of the month the withholding was made.

(A) VAT-registered RDSPs

- (1) Purchase or importation of goods or properties shall be creditable to the purchaser upon consummation of sale and importation of goods or properties, and to the importer upon payment of the VAT prior to the release of the goods from the custody of the Bureau of Customs (BOC); and
- (2) Purchase of services, lease or use of properties shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty, or fee.

(B) VAT-registered NDSPs

VAT-registered NDSPs shall not be allowed to claim creditable input tax.

(C) VAT-registered buyer

Only VAT-registered buyers are entitled to claim input taxes. Non-VAT registered buyers may claim the same as part of the cost. VAT-registered buyers can utilize the filed withholding VAT return as proof to support their claim for input VAT.

(A) VAT-registered RDSPs

VAT-registered RDSPs shall issue a sale or commercial invoice for every sale, barter, or exchange of digital services under Section 113 of the Tax Code.

(B) VAT-registered NDSPs

The following information shall be indicated in the invoice in lieu of the requirements under Section 113(B) paragraphs 1-4 of the Tax Code:

- (1) Date of the transaction;
- (2) Transaction reference number;
- (3) Identification of the consumer (including the taxpayer identification number, if any);
- (4) Brief description of the transaction; and
- (5) The total amount with the identification that such amount includes the VAT.

Sales or commercial invoices issued by VAT-registered NDSPs may be electronic and need not be registered with the BIR, provided that they are in English or include an English translation with all the abovementioned information. Hence, they are not required to secure an Authority to Print for said invoices.

If the sale of digital services includes services subject to VAT, zero-rated, or exempt, the invoice shall clearly indicate such breakdown with the calculation of the VAT on each portion of the sale.

NDSPs classified as an e-marketplace shall issue the relevant invoice following the rules prescribed for VAT-registered NDSPs.

All persons subject to VAT under Section 106 and 108 of the Tax Code shall maintain regular accounting records, subsidiary sales journal, and

subsidiary purchase journal on which the daily sales and purchases are recorded. This, however, shall not apply to VAT-registered NDSPs.

The following digital service transactions shall be exempt from VAT:

- (A) Educational services duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and those rendered by government educational institutions;
- (B) Sale of online subscription-based services to DepEd, CHED, TESDA, and educational institutions recognized by said government agencies; and
- (C) Services of bank, non-bank financial intermediaries performing quasi-banking functions, and other non-bank intermediaries that are rendered through different digital platforms. This includes Virtual Asset Service Providers (VASPs) registered and classified by the Bangko Sentral ng Pilipinas (BSP) as non-bank financial institutions.

All parties to the B2B and B2C transactions within the taxing jurisdiction of the Philippines shall be subject to post-audit and examination by the BIR. For NDSPs, the BIR may also conduct verification from third-party sources on whether they are correctly declaring their gross sales and that of their customers for VAT purposes.

The Commissioner of Internal Revenue (CIR) or his duly authorized representative has the authority to issue a closure/take down order to close the business operations of covered persons engaged in business upon verification that a DSP has failed to: (a) register its business with the BIR and (b) comply with the provisions of these regulations.

Violation of any provisions of these regulations shall be subject to the imposition of penalties and institution of appropriate criminal, civil and administrative charges against erring DSPs and their responsible officers under the Tax Code, existing laws, rules, and regulations.

All NDSPs shall register with the BIR within 60 days from the effectivity of these regulations (i.e., 2 April 2025) through the VDS Portal and shall immediately be subject to VAT after 120 days from effectivity of these regulations (i.e., 1 June 2025).

*Please see attached Revenue Regulations No. 3-2025 for your reference. This shall come into effect 15 days from publication in the Official Gazette or the BIR's website, whichever is earlier, or on **1 February 2025**.*

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Get in touch

Should you have any comments or questions, please contact our Tax & Legal Partners:



Carlo Navarro
Country Tax & Legal Leader
SEA Transfer Pricing Leader
canavarro@deloitte.com



Business Tax



Senen Quizon
Business Tax Leader
smquizon@deloitte.com



Walter Abela Jr.
Partner
wabela@deloitte.com

Legal



Ronald Bernas
Legal Leader
rbernas@deloitte.com



Romel Curiba
Partner
rcuriba@deloitte.com



Elaine de Guzman
Partner
eedeguzman@deloitte.com



Mary Rose Pascual
Partner
marpascual@deloitte.com

Transfer Pricing

Global Employer Services (GES)



Daniel Laoh
Transfer Pricing Leader
dlaoh@deloitte.com



Alvin Saldaña
GES Leader
asaldana@deloitte.com

Business Process Solutions (BPS)



Imelda Lapres
BPS Leader
itapay@deloitte.com



Charisse Siao
Partner
csiao@deloitte.com

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