Bringing In Revenues
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

BAGONG PILIPINAS
JAN 16 2025

REVENUE REGULATIONS NO. 003-2025

SUBJECT: **Prescribing Policies and Guidelines for the Implementation of Republic Act No. 12023 entitled "An Act Amending Sections 105, 108, 109, 110, 113, 114, 115, 128, 236 and 288 and Adding New Sections 108-A and 108-B of the National Internal Revenue Code of 1997, as Amended," Imposing the Value-Added Tax on Digital Services**

TO: **All Internal Revenue Officials, Employees and Others Concerned**

SECTION 1. ***Scope.*** – Pursuant to Sections 244 and 245 of the National Internal Revenue Code of 1997, as amended (Tax Code), in relation to Section 15 of Republic Act (RA) No. 12023 entitled "*An Act Amending Sections 105, 108, 109, 110, 113, 114, 115, 128, 236 and 288 and Adding New Sections 108-A and 108-B of the National Internal Revenue Code of 1997, as Amended*", these Regulations are hereby promulgated to prescribe the policies and guidelines for the implementation of the provisions of the said Act.

SECTION 2. ***Coverage.*** – These Regulations shall cover the following:

(A) **As to person and subject matter**: Persons (individual or juridical, resident or nonresident) who, in the course of trade or business, supply, or deliver digital services (as defined herein), in the Philippines.

It does not cover the sale, supply or delivery of physical goods from a foreign territory to a consumer, user, or buyer in the Philippines, it being an importation of goods subject to customs duties, taxes, such as value-added tax (VAT) or excise tax, as may be applicable, and other charges under RA No. 10863 or the Customs Modernization and Tariff Act, and other applicable laws, rules, and regulations.

(B) **As to the transactions involved**: Generally, there are two (2) transactions covered by these Regulations, namely:

(1) Business-to-business (B2B) transactions - Supply or delivery of digital services to natural or juridical persons engaged in business located in the Philippines, and the Government of the Philippines or any of its political subdivisions, instrumentalities, or agencies, including government-owned and controlled corporations (GOCCs); and

(2) Business-to-consumer (B2C) transactions - Supply or delivery of digital services to persons not engaged in business located in the Philippines.

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(C) **As to the tax compliance**: digital service providers (DSPs) are categorized either as:

(1) DSPs directly delivering or supplying digital services to a buyer in the Philippines; and/or

(2) DSPs acting as an online marketplace or e-marketplace on the transactions of nonresident sellers or suppliers that go through its platform, provided it controls the key aspects of the supply and performs any of the following:

(i) it sets directly or indirectly any of the terms and conditions under which the supply of digital services is made; or
(ii) it is involved in the ordering or delivery of digital services whether directly or indirectly.

SECTION 3. ***Definition of Terms.*** – For purposes of these Regulations, the terms herein provided shall be defined as follows:

(A) "***Digital Services***" refers to any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated. It shall include, but not limited to:

(1) Online search engine;
(2) Online marketplace or e-marketplace;
(3) Cloud service;
(4) Online media and advertising;
(5) Online platform; or
(6) Digital goods.

Provided, that digital goods refer to intangible goods that are delivered or transferred in digital form, including sounds, images, data, facts, or combinations thereof. These include, but are not limited to, digital content purchases (e.g., downloads of e-books, music, videos, software, applications, digital media, e-games, online courses); subscription-based supplies of content (e.g., news, music, streaming media, online gaming, online courses); digital art; supplies of software services and maintenance (anti-virus software, digital data storage, etc.); licensing of content (e.g., access to specialized online content such as publications and journals, software, cloud-based systems, etc.); telecommunication and broadcasting services; and virtual assets.

Digital services also include cloud and IT infrastructure, such as data storage and web hosting; e-commerce platforms and payment processing; targeted digital marketing and analytics; communication tools and collaborative software; e-learning platforms and professional networking; data analytics and Artificial Intelligence for business insights; cybersecurity and regulatory compliance; masking and encryption services (e.g., virtual private network services); system maintenance and optimization for digital services; online consultations through a digital platform (i.e., website, applications, e-marketplace); and interactive media, like online gaming and Augmented and/or Virtual Reality (AR/VR) experiences.

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(B) "***Digital Service Provider (DSP)***" refers to a resident or nonresident supplier of digital services to a buyer who uses digital services subject to VAT in the Philippines.

(C) ***"Electronic Marketplace (e-marketplace)"*** refers to a digital service platform whose business is to connect online buyers with online sellers or merchants, facilitate and conclude the sales, process the payment of the digital services through such digital platform, or facilitate the post-purchase support within such platforms, while retaining oversight over the consummation of the transaction.

(D) "***Gross sales of Nonresident DSPs***" refer to the total sales of digital services by nonresident DSPs through B2B and B2C transactions in Philippine Peso. In case the service payment is in foreign currency, the DSP shall convert the payment into Philippine Peso currency as follows:

(1) The spot rate of exchange on a daily or a monthly basis using the average exchange rate during the month based on the Banker's Association of the Philippines (BAP) published rates; or

(2) In the event that the foreign exchange rate as stated in the preceding paragraph is impractical or not feasible, the daily spot rate or the monthly average rate based on other available exchange rates (e.g., *Bangko Sentral ng Pilipinas*, Bloomberg, Reuters exchange rates, etc.) shall be used subject to the following conditions:

(i) A taxpayer electing to use forex rates other than BAP published rates shall state the reason in the VAT on Digital Services (VDS) Portal for using a source of the foreign exchange rate other than BAP published rates, and allow the BIR to have an access on the day-to-day or monthly average foreign exchange rates for verification and validation.

(ii) The source of the foreign exchange rates used in converting foreign currency-denominated transactions, such as the URL/source where the foreign exchange rates are published or listed or a summary of the day-to-day or monthly average exchange rates to be used for the taxable year must be available for submission, together with other supporting documents during BIR verification and validation.

The election of the basis of conversion for the foreign exchange rate is irrevocable and must be used consistently in reporting for tax purposes for at least one taxable year.

The Commissioner of Internal Revenue may, however, prescribe the acceptable conversion rates to be used and specify when those rates shall be applied.

(E) "***Nonresident DSP***" refers to a DSP that has no physical presence in the Philippines.

(F) "***Online media and advertising***" refers to online or web-advertising services (e.g., banner ad, sidebar ad, and pop-up), sale of advertising space or time, and sponsored

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content/s, such as social media posts whether algorithmically pushed or not to certain users and are intended to be promotional in nature.

(G) ***"Resident DSP"*** refers to a DSP other than those classified as nonresident DSPs.

(H) "***Reverse Charge Mechanism***" refers to a mechanism where persons engaged in business located in the Philippines, including the Government of the Philippines or any of its political subdivisions, instrumentalities or agencies, including GOCCs, as buyer of digital services, are liable to withhold the VAT under these Regulations on behalf of such nonresident DSP and remit the same to the BIR.

SECTION 4. ***Taxability of gross sales of DSPs*** — Generally, VAT shall be levied, assessed, and collected, equivalent to twelve percent (12%) of the gross sales derived by a DSP from its sale or exchange of services in the Philippines pursuant to Section 108 of the 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 nonresident DSP shall be considered performed, rendered, supplied, or delivered in the Philippines in the course of trade or business if such digital services are consumed in the Philippines. Hence, gross sales received by a nonresident DSP from the same shall be subject to twelve percent (12%) VAT pursuant to the provisions of Section 5(b) of these Regulations. For this purpose, digital services are considered consumed or used in the Philippines if the buyer is located in the Philippines.

The following information, among others, may be used to determine whether the digital service is consumed or used in the Philippines:

(A) Payment information (e.g., credit card information, bank account details); or
(B) Residence information of the buyer (e.g., home address, billing address); or
(C) Access information (e.g., mobile country code of SIM card, Internet Protocol address); or
(D) Any other information to establish the most reliable determination of the buyer's location (e.g., business agreement, predominant place of consumption, language of digital content supplied).

However, if such information is contradictory, the DSPs should obtain at least two pieces of non-conflicting evidence of where the service is consumed.

SECTION 5. ***Registration Requirements for DSPs.*** – DSPs shall comply with the following administrative requirements:

(A) **Resident DSPs** 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) **Nonresident DSPs** 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.

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In registering with the BIR, a nonresident DSP need not have a local representative in the Philippines. However, it may appoint a resident third-party service provider (an individual or entity, such as a law firm, accounting firm, or consultancy firm) for purposes of receiving notices, record keeping, filing of tax returns and other reporting obligations. In this case, the nonresident DSP shall notify the BIR in writing of the same within thirty (30) calendar days from date of appointment. For VAT purposes, the appointment of a third-party service provider shall not classify the nonresident DSP as a nonresident foreign corporation doing business in the Philippines.

A Certificate of Registration containing the assigned Taxpayer Identification Number (TIN) and type of registration shall be issued to the registering nonresident DSP, which shall be used in all its transactions pertaining to the supply or delivery of digital services consumed or used in the Philippines.

The suspension of business operations in the Philippines and penalties under Sections 12 and 13 of these Regulations shall be imposed upon nonresident DSPs who failed to register for VAT.

SECTION 6. ***Requirements on filing of tax returns and payment and remittance of VAT.*** – DSPs shall apply the following rules in filing their tax returns and payment and remittance of VAT under these Regulations:

(A) **Resident VAT-registered DSP**

The resident VAT-registered DSP, whether or not its buyer is engaged in business shall file the VAT return and pay the VAT due thereon following the policies and procedures under Title III of the Tax Code and other existing relevant laws, rules and regulations.

However, if the resident VAT-registered DSP is classified as an e-marketplace with nonresident participating merchant or seller, it shall also be liable for: (i) electronically filing the required remittance return; and (ii) withholding and remitting the twelve percent (12%) VAT due on the gross sales received by its nonresident participating merchant or seller relating to sale of digital services consumed or used in the Philippines within ten (10) days following the end of the month the withholding was made in accordance with Sections 108 (A) and 114 (C) of the Tax Code.

(B) **Nonresident VAT-registered DSP**

(1) B2B transaction

In a B2B transaction, the persons engaged in business, including the Government of the Philippines or any of its political subdivisions, instrumentalities or agencies, including GOCCs, shall be liable for: (i) electronically filing the required remittance return; and (ii) withholding and remitting the twelve percent (12%) VAT due on its purchase of digital services consumed or used in the Philippines within ten (10) days following the end of

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the month the withholding was made in accordance with Sections 108 (B), 114 (C) and (D), and 245 (j) of the Tax Code. The withheld VAT shall be considered as input VAT or part of the cost or expense, as the case may be, on the part of the withholding buyer.

(2) B2C transaction

In a B2C transaction, the nonresident VAT-registered DSP 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 relating to the sale of digital services consumed or used in the Philippines within twenty-five (25) days following the close of each taxable quarter, in accordance with Sections 108-B and 114 (A) of the Tax Code.

Nonresident VAT-Registered DSPs may choose to pay the VAT due on a monthly basis if they deem so convenient. However, should they choose to file the VAT return and pay the tax due thereon on a monthly basis, they are still required to file the quarterly tax return and pay the corresponding VAT liabilities as mandated under the Tax Code.

Furthermore, if the nonresident DSP is classified as an e-marketplace, it shall also be liable for: (1) electronically filing the VAT return; and (2) paying the twelve percent (12%) VAT due thereon based on the gross sales received by its nonresident participating merchant or seller relating to sales of digital services consumed or used in the Philippines within twenty-five (25) days following the close of each taxable quarter in accordance with Section 108 (B) of the Tax Code: *Provided*, that it has control on the key aspects of the supply and:

(i) sets, directly or indirectly, any of the terms and conditions under which the supply of digital services is made (i.e., price, payment terms, delivery conditions); or

(ii) is involved, directly or indirectly, in the ordering or delivery of digital services, that is, having influence over the conditions of delivery, transmission of approval to supplier, and provision of order fulfillment services.

All electronic payments and remittances of Philippine taxes under these Regulations shall be in Philippine Peso. For this purpose, VAT shall be calculated by multiplying the value of the digital services rendered in Philippine Peso by the VAT rate of twelve percent (12%).

In the preparation of the relevant tax returns and the payment and remittance of taxes as prescribed above, DSPs and the Philippine buyers are required to determine whether or not its contracting party is engaged in business. Each of the DSPs and buyers may rely on the documents and/or information (e.g., Tax Identification Number or TIN) submitted by its contracting party and shall be absolved from any tax liability, absent any fraud or negligence on the part of such relying party.

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In cases 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 or pay the tax due, pursuant to the prescribed rules and procedures above.

In case of late filing of tax returns and/or payment or remittance of taxes, there shall be imposed, in addition to the tax required to be paid, interest, surcharge, and penalties upon violating DSPs in accordance with the Tax Code and other existing rules and regulations.

(C) **Unregistered Nonresident DSPs**

In a B2B transaction, such persons engaged in business, including the Government of the Philippines or any of its political subdivisions, instrumentalities or agencies, including GOCCs, shall be liable for: (i) electronically filing the required remittance return; and (ii) withholding and remitting the twelve percent (12%) VAT due on its purchase of digital services consumed in the Philippines to the BIR within ten (10) days following the end of the month the withholding was made in accordance with Section 114 (C) of the Tax Code and Section 4.114 of Revenue Regulations (RR) No. 2-98, as amended.

SECTION 7. ***Proper Claiming of Input Tax*** – DSPs shall apply the following rules in claiming input tax under these Regulations:

(A) Resident VAT-registered DSPs

(1) Purchase or importation of goods or properties which shall be creditable to the purchaser upon consummation of sale and on 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; and

(2) Purchase of services, lease, or use of properties which shall be creditable to the purchaser, lessee, or licensee upon payment of the compensation, rental, royalty, or fee.

(B) Nonresident VAT-registered DSPs

Nonresident VAT-registered DSPs 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. These VAT-registered buyers can utilize the filed withholding VAT return as proof to support their claim for input VAT.

SECTION 8. ***Issuance of invoice.*** – DSPs shall apply the following rules in the issuance of sales or commercial invoices under these Regulations:

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(A) Resident VAT-registered DSPs

Resident VAT-registered DSPs shall issue sales or commercial invoices for every sale, barter, or exchange of digital services under Section 113 of the Tax Code.

(B) Nonresident VAT-registered DSPs

For nonresident VAT-registered DSPs supplying or delivering digital services that are consumed or used in the Philippines, 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 buyer (including the TIN, if any);
(4) Brief description of the transaction; and
(5) The total amount with the indication that such amount includes the VAT.

Sales or commercial invoices issued by nonresident VAT-registered DSPs may be electronic and need not be registered with the BIR: *Provided*, however, that the contents are in the English language or include an English translation and all the required information above are present in the issued invoices. Consequently, nonresident VAT-registered DSPs are not required to secure an Authority to Print for the related invoices.

In case the sale of digital services by a nonresident VAT-registered DSP includes some services which are subject to VAT, and some are VAT zero-rated or VAT-exempt, the invoice shall clearly indicate the breakdown of the sale price by its taxable, VAT-exempt, and VAT zero-rated components. The calculation of the VAT on each portion of the sale shall be shown on the invoice.

In case a nonresident DSP is classified as an online marketplace or e-marketplace under Section 2(C)(2) of these Regulations, it shall issue the relevant sale or commercial invoice following the rules prescribed for nonresident VAT-registered DSPs.

SECTION 9. ***Accounting requirements.*** – All persons subject to VAT under Sections 106 and 108 of the Tax Code shall maintain regular accounting records, including subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The requirements under this Section, however, shall not apply to nonresident VAT-registered DSPs.

SECTION 10. ***VAT-Exempt Digital Service Transactions.*** – The following digital service transactions shall be exempt from VAT:

(A) Educational services, including online courses, online seminars and online trainings rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical

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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 BSP as Non-Bank Financial Institutions.

Other VASPs, however, including businesses involved in the participation and provision of financial services related to issuer's offer and/or sale of a Virtual Asset shall be subject to the provisions of the Act and these Regulations.

SECTION 11. ***Conduct of Post-Audit and Verification by the BIR.*** – All the parties to the B2B and B2C transactions that are within the taxing jurisdiction of the Philippines shall be subject to post-audit and examination by the BIR pursuant to the provisions of the Tax Code and its implementing revenue issuances.

For nonresident DSPs, 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 BIR shall inform the nonresident DSP of any discrepancy discovered and provide them opportunity to immediately settle it; otherwise, they shall be held liable under Sections 12 (on the Suspension or Closure of Online Business Operations) and 13 (Penalties) of these Regulations.

SECTION 12. ***Suspension of Business Operations.*** — The CIR or his duly authorized representative, upon verification that any DSP fails to: (a) register its business with the BIR; and (b) comply with the provision of these Regulations, has the authority to issue a Closure or Take Down Order to close the business operations of such covered persons engaged in business in accordance with applicable rules and regulations.

The Closure or Take Down Order shall include the blocking of digital services performed or rendered in the Philippines by a DSP which shall be implemented by the Department of Information and Communications Technology, through the National Telecommunications Commission. Failure to cooperate by the concerned persons shall be construed as an intentional and overt act that shall aggravate the offense charged.

The closure of business operations under a duly approved Closure or Take Down Order shall not preclude the BIR from filing the appropriate administrative and criminal sanctions against the persons concerned if evidence so warrants, or in the case of juridical entities, against its responsible officers, under the Run After Tax Evaders (RATE) Program of the BIR.

SECTION 13. ***Penalties.*** — 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.

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SECTION 14. ***Transitory Provision.*** – All nonresident DSPs required to register under Section 5 of these Regulations shall register or update with the BIR within sixty (60) days from the effectivity of these Regulations through the VDS Portal and shall immediately be subject to VAT after 120 days from the effectivity of these Regulations.

SECTION 15. ***Repealing Clause.*** — Any rules and regulations, issuances or parts thereof inconsistent with the provisions of these Regulations are hereby repealed, amended or modified accordingly.

SECTION 16. ***Separability Clause.*** — If any of the provisions of these Regulations is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 17. ***Effectivity.*** — This issuance shall take effect fifteen (15) days following its publication in the Official Gazette or the BIR's official website, whichever comes earlier.

RALPH G. RECTO
Secretary of Finance
JAN 16 2025

Recommending Approval:

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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