

Philippines proposes law for taxation of the digital economy

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Executive Summary

The Philippines House of Representatives has introduced a Bill,¹ the *Digital Economy Taxation Act of 2020* (DETA 2020 Bill), which aims to subject the value created in the digital economy to withholding/income tax and value-added tax (VAT).

Pursuant to the DETA 2020 Bill, digital or electronic goods, services rendered electronically, digital advertising services, internet-based subscription services, and transactions made on electronic commerce (e-commerce) platforms will be subject to a 12% VAT. Network orchestrators and e-commerce platforms will be designated as withholding agents for income tax and/or VAT purposes. Nonresidents providing digital services will also be required to establish representative offices or appoint resident agents to carry out business in the Philippines. The DETA 2020 Bill is subject to further deliberations in the Congress.

This Alert summarizes the key changes proposed under the *Digital Economy Taxation Act*.

Detailed discussion

Key changes

1. Network orchestrators² such as ride-hailing companies, rental platforms and other persons that link customers and service providers within a network system are required to withhold tax on the income and/or revenue derived by its partners through membership in the network orchestrator system.
2. Digital or electronic goods and services rendered electronically³ in the course of trade or business are subject to VAT.
3. Digital advertising services,⁴ subscription-based services,⁵ and any services that can be delivered through an information structure (such as the internet) are subject to VAT.
4. Network orchestrators for lease services, and e-commerce platforms⁶ are designated as withholding agents of the seller for VAT purposes. VAT amounts withheld should be remitted within 10 days following the end of the month the withholding was made.
5. Nonresidents that render digital services,⁷ or act as network orchestrators and/or as e-commerce platforms, must do so through a representative office or resident agent in the Philippines. Revenues derived from these services will be considered revenues generated by the representative office or resident agent for tax purposes.

Other related measures

The Department of Finance (DOF) and the Bureau of Internal Revenue (BIR) are presently drafting regulations and designing a system to effectively collect VAT on local and cross-border digital transactions. Meanwhile, for income tax purposes, the DOF is monitoring developments in countries where digital services taxes on online platforms have been imposed. The DOF has stated that it will review and propose tax reforms to levy income tax on cross-border digital transactions after international consensus has been reached on the taxation of the digital economy.⁸

Implications

While under strict quarantine measures as a result of COVID-19, e-commerce and online transaction activity in the Philippines has shown resilience to the downturn, indicating that the Philippine economy is continuing its shift towards digitalization. As the Philippine Government identifies new or additional sources of revenue to fund the country's increased government spending, there is an accelerated effort to capture the value created through digital transactions; ease the burden on individual taxpayers; and design innovative approaches to encourage tax compliance.

Endnotes

1. House Bill No. 6765 was filed on 19 May 2020.
2. A "network orchestrator" is defined as persons, typically aided by information technology, that create a network of accredited service providers and service consumers, and act as intermediaries that facilitate the matching of a consumer's service needs with a provider's available services.
3. "Services rendered electronically" refer to services rendered to a consumer through an electronic means of transmission, typically the internet.
4. "Digital advertising services" refer to online advertisement services, any provision for digital advertising space, and any other facility or service for the purpose of online advertisement.
5. "Subscription-based services" refer to products and services rendered electronically in exchange for a regular subscription fee over the usage of the said product or service.
6. "Electronic commerce platform" refers to persons, typically information technology companies, that act as intermediaries by connecting sellers and consumers, usually through an electronic means of transmission.
7. Digital advertising services, subscription-based services, or other similar services.
8. Laforga, Beatrice. (3 June 2020). DOF awaiting international consensus on digital services tax. *Businessworld*. Retrieved from <https://www.bworldonline.com/dof-awaiting-international-consensus-on-digital-services-tax/>.

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