

23 JAN 23 P12 :01

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

RECEIVED BY:



SENATE

S.B. No. 1721

Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
AMENDING SECTIONS 34, 110, 113, 237-A, 255, 256, AND 257 OF THE
NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

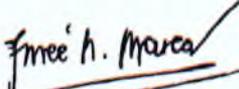
Taxation is the lifeblood of the government, and improving tax collection and revenue generation, while eliminating corruption and inefficiency, provide impetus for a more perfect state capable of fulfilling the social contract and upholding the welfare of the Filipino public.

To ensure that businesses pay their fair share, this measure seeks to implement Value-Added Tax Electronic Billing (VAT e-Billing) which shall provide proof that (1) a legitimate transaction has taken place; and (2) the business has complied with the tax requirements. This compels businesses to pay the VAT in advance, and has the advantage of allowing the deduction of implicit VAT payments on purchases from overall tax liability, thus avoiding payment of VAT multiple times as an input to other goods or services. Adopted from China's fapiao system, VAT e-Billing will ensure compliance among businesses in paying VAT and enable real-time monitoring of business transactions among enterprises, plugging more than P5 Billion in tax leakages at the source.

VAT e-Billing will streamline the Bureau of Internal Revenue (BIR) and allow it to re-organize and re-allocate its resources. Further, this system shall increase the competitiveness of firms engaged in the productions of intermediary goods and services. Further, the use of VAT e-Billing makes the payment of revenue all year round, thus, eliminating the traditional peak period, and ultimately allowing for sustainable revenue generation to fund vital programs aimed at poverty alleviation and economic development.

To ensure the success of VAT e-Billing, the use of blockchain technology is sought in order to safeguard the process and protect it from counterfeiting. The use of distributed electronic ledgers based on blocks, each of which record a transaction, is tamper-proof and transparent. Using an invoicing system on the blockchain will allow for seamless payments made automatically between the BIR and the businesses using VAT e-Billing.

In view of the foregoing, the immediate passage of this measure is earnestly sought.


~~IMEE R. MARCOS~~



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PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

- 1 **SECTION 1.** *Short Title.* – This Act shall be known as the "VAT e-Billing Act".
- 2
- 3 **SEC. 2.** *Declaration of Policy.* –
- 4
- 5 1) To establish an electronic single billing system for value-added tax (VAT)
- 6 purposes and to streamline the requirements for the issuance of invoices
- 7 whether for income tax or VAT purposes.
- 8 2) To provide for a more uniform billing system for VAT that effectively address
- 9 substantiation requirements and help avoid fraudulent business transactions
- 10 by facilitating audit by the tax collectors.
- 11 3) To lay the foundation for a more sophisticated system of tax compliance and
- 12 monitoring of business transactions at the point-of-sale leading to the
- 13 deterrence of tax evasion and development of an institutional framework for
- 14 incentives to taxpayers who will utilize the electronic system and front load
- 15 their tax liabilities.
- 16
- 17 **SEC. 3.** Section 34 (A) (1) (b) of the National Internal Revenue Code (NIRC) of
- 18 1997, as amended, is hereby amended to read as follows:
- 19
- 20 "SEC. 34. xxx:
- 21 (A) Expenses. – xxx
- 22 (1) Ordinary and Necessary Trade, Business or Professional
- 23 Expenses. –

- 1 (a) In General. – xxx
2 (b) Substantiation Requirements. – No deduction from gross
3 income shall be allowed under Subsection (A) hereof unless the
4 taxpayer shall substantiate with ~~[sufficient evidence such as~~
5 ~~official receipts and other adequate records]~~ **A VAT / NONVAT**
6 **OFFICIAL BILLS AS PROVIDED FOR IN SECTION 113 OF**
7 **THIS CODE**, (i) the amount of the expense being deducted, and
8 (ii) the direct connection or relation of the expense being deducted
9 to the development, management, operation and/or conduct of
10 the trade, business or profession of the taxpayer.”

11
12 **SEC. 4.** Section 114 of the NIRC, as amended, is hereby amended to read as
13 follows:

14
15 "SEC. 110. Tax Credits. –

16 A. Creditable Input Tax. –

17 (1) Any input tax evidenced by a ~~[VAT invoice or official~~
18 ~~receipt]~~ **VAT OFFICIAL BILL** issued in accordance with
19 Section 113 hereof on the following transactions shall be
20 creditable against the output tax:

21 (a) Purchase or importation of goods:

22 (i) For sale; or

23 (ii) For conversion into or intended to form part of a finished
24 product for sale including packaging materials; or

25 (iii) For use as supplies in the course of business; or

26 (iv) For use as materials supplied in the sale of service; or

27 (v) For use in trade or business for which deduction for
28 depreciation or amortization is allowed under this Code.

29 (b) Purchase of services on which a value-added tax has
30 been actually paid.

31 (2) The input tax on domestic purchase or importation of
32 goods or properties by VAT-registered person shall be
33 creditable:

34 (a) To the purchaser upon consummation of sale and on
35 importation of goods or properties; and

36 (b) To importer upon payment of the value-added tax prior
37 to the release of goods from the custody of the Bureau
38 of Customs.

39 xxx

40 (3) A VAT-registered person who is also engaged in
41 transactions not subject to the value-added tax shall be
42 allowed tax credit as follows:

43 (a) Total input tax which can be directly attributed to
44 transactions subject to value-added tax; and

1 (b) A ratable portion of any input tax which cannot be
2 directly attributed to either activity.

3
4 The term "input tax" means the value-added tax due from or
5 paid by a VAT-registered person in the course of his
6 trade or business on importation of goods or local
7 purchase of goods or services, including lease or use of
8 property, from a VAT-registered person, **SUBJECT TO**
9 **THE PROVISIONS OF SECTION 113.**

10
11 The term "output tax" means the value-added tax due on the
12 sale or lease of taxable goods or properties or services
13 by any person registered or required to register under
14 Section 236 of this Code.

15
16 (B) Excess Output or Input Tax. – If at the end of any taxable
17 quarter the output tax exceeds the input tax, the excess
18 shall be paid by the VAT-registered person. If the input
19 tax exceeds the output tax, the excess shall be carried
20 over the succeeding quarter or quarters. Provided,
21 however, That any input tax attributable to zero-rated
22 sales by a VAT-registered person may at his option be
23 refunded or credited against other internal revenue
24 taxes, subject to the provisions of Section 112.

25 (C) Determination of Creditable Input Tax. – xxx"

26
27 **SEC. 5.** Sections 113 (A) and (B) of the NIRC, as amended, are hereby amended
28 to read as follows:

29
30 "SEC.113. Billing and Accounting Requirements for VAT-
31 Registered Persons. –

32 (A) Billing Requirements. – A VAT-registered person shall issue
33 ~~[1] A VAT bill for every single sale, barter or exchange of goods~~
34 ~~or properties; and~~
35 ~~(2) A VAT official receipt for every lease of goods or properties,~~
36 ~~and for every sale, barter or exchange of services]~~

37 **1. AN OFFICIAL VAT BILL FOR EVERY SALE, BARTER OR**
38 **EXCHANGE OF GOODS OR PROPERTIES, EVERY LEASE**
39 **OF GOODS OR PROPERTIES, AND FOR EVERY SALE,**
40 **BARTER OR EXCHANGE OF SERVICES.**

41 **2. SAID OFFICIAL BILL SHALL BE PURCHASED OR**
42 **SOURCED ELECTRONICALLY FROM THE BUREAU OF**
43 **INTERNAL REVENUE AND NO OTHER DOCUMENT**
44 **OTHER THAN SAID OFFICIAL BILL SHALL BE ALLOWED**

1 **AS CLAIM OF INPUT TAX CREDIT. PROVIDED, THAT**
2 **THOSE UNDER THE COMPUTERIZED ACCOUNTING**
3 **SYSTEM OR E-BILLING SHALL BE REQUIRED TO**
4 **CONNECT ELECTRONICALLY TO THE SYSTEM OF THE**
5 **BUREAU OF INTERNAL REVENUE IN ORDER TO ISSUE**
6 **THE OFFICIAL VAT BILL.**

7 (B) Information Contained in the Official VAT bill. – The
8 following shall be indicated in the ~~[VAT invoice or VAT official~~
9 ~~receipt]~~ **OFFICIAL VAT BILL:**

10 (1) A statement that the seller is a VAT-registered persons,
11 followed by his Taxpayer's Identification Number (TIN); and

12 (2) The total amount which the purchase pays or is obligated
13 to pay to the seller with the indication that such amount
14 included the value-added tax. Provided, That:

15 (a) The amount of the tax shall be known as a separate item in
16 the bill ~~[or receipt]~~;

17 (b) If the sale is exempt from value-added tax, the term "VAT-
18 exempt sale" shall be written or printed prominently on the bill
19 ~~[or receipt]~~;

20 (c) If the sale is subject to zero percent (0%) value-added tax,
21 the term "zero-rated sale" shall be written or printed
22 prominently on the bill ~~[or receipt]~~;

23 (d) If the sale involved goods, properties or services some of
24 which are subject to and some of which are VAT zero-rated or
25 VAT exempt, the bill ~~[or receipt]~~ shall clearly indicate the break-
26 down of the sale price between its taxable, exempt and zero-
27 rated components, and the calculation of the value-added tax
28 on each portion of the sale shall be known on the invoice ~~[or~~
29 ~~receipt]~~: Provided, That the seller may issue separate bills ~~[or~~
30 ~~receipts]~~ for the taxable, exempt, and zero-rated components
31 of the sale.

32 (3) The date of transaction, quantity, unit cost and description
33 of the goods or properties or nature of the service; and

34 (4) The name, business style, if any, address and Taxpayer
35 Identification Number (TIN) of the purchaser, customer or
36 client.

37 (C) Accounting Requirements. - xxx

38 ~~[(D) Consequence of Issuing Erroneous VAT Bill or VAT Official~~
39 ~~Receipt.]~~

40 ~~(1) If a person who is not a VAT registered person issues an~~
41 ~~invoice or receipt showing his Taxpayer Identification Number~~
42 ~~(TIN), followed by the word "VAT";~~

43 ~~(a) The issuer shall, in addition to any liability to other~~
44 ~~percentage taxes, be liable to:~~

1 ~~(i) The tax imposed in Section 106 or 108 without the benefit~~
2 ~~of any input tax credit; and~~
3 ~~(ii) A 50% surcharge under Section 248(B) of this Code;~~
4 ~~(b) The VAT shall, if the other requisite information required~~
5 ~~under Subsection (B) hereof is shown on the invoice or receipt,~~
6 ~~be recognized as an input tax credit to the purchaser under~~
7 ~~Section 110 of this Code.~~
8 ~~(2) If a VAT registered person issues a VAT bill or VAT official~~
9 ~~receipt for a VAT exempt transaction, but fails to display~~
10 ~~prominently on the bill or receipt the term 'VAT exempt sale,'~~
11 ~~the issuer shall be liable to account for the tax imposed in~~
12 ~~section 106 or 108 as if Section 109 did not apply.]~~

13
14 ~~[(E)] (D) Transitional Period. – Notwithstanding Subsection (B)~~
15 ~~hereof, taxpayers may continue to issue VAT bills and VAT~~
16 ~~official receipt for the period [July 1, 2005 to December 31,~~
17 ~~2005] **JULY 1, 2023 TO DECEMBER 31, 2023** in accordance~~
18 ~~with Bureau of Internal Revenue administrative practices that~~
19 ~~existed [as of December 31, 2004].~~

20
21 **SEC. 6.** Section 237 (A) of the NIRC, as amended, is hereby amended to read
22 as follows:

23
24 "SEC. 237-A. Electronic Sales Reporting System. – Within five (5)
25 years from the effectivity of this Act and upon the establishment
26 of a system capable of storing and processing the required data,
27 the Bureau shall require taxpayers engaged in the export of
28 goods and services, and taxpayers engaged in e-commerce and
29 taxpayers under the jurisdiction of the Large Taxpayers Service
30 to **USE A SYSTEM CAPABLE OF ISSUING ELECTRONIC**
31 **RECEIPTS OR SALES OR COMMERCIAL INVOICES,**
32 **COLLECT TRANSACTION RECORDS, AND TRANSMIT THE**
33 **SAME THROUGH THE DESIGNATED ELECTRONIC**
34 **CHANNELS OF THE BUREAU IN THE STANDARD FORMAT**
35 **REQUIRED** [electronically report their sales data to the Bureau
36 through the use of electronic point-of-sales systems,] subject to
37 the rules and regulations to be issued by the Secretary of Finance
38 upon recommendation of the Commissioner of Internal Revenue:
39 Provided, That the POINT OF SALE (POS) machines, **VALUE-**
40 **ADDED NETWORK (VAN) TERMINALS, fiscal devices, and**
41 **fiscal memory devices WITH CAPACITY TO MAKE SUCH**
42 **TRANSMISSION shall be at the expense of the taxpayers:**
43 **PROVIDED, FURTHER, SUBJECT TO THE RULES AND**
44 **REGULATIONS TO BE ISSUED BY THE SECRETARY OF**

1 **FINANCE, THE COMMISSIONER MAY REQUIRE ANY**
2 **TAXPAYER TO COMPLY WITH THE PROVISIONS OF THIS**
3 **SECTION.**

4
5 **IN SUPPORT OF THE ELECTRONIC SALES REPORTING**
6 **SYSTEM, THE BUREAU OF INTERNAL REVENUE MAY**
7 **GRANT TAX INCENTIVES FOR ELECTRONICALLY**
8 **TRACEABLE PAYMENTS (ETP) IN THE FORM OF**
9 **ALLOWABLE DEDUCTIBLE EXPENSE OF UP TO FIFTEEN**
10 **PERCENT (15 %) OF THE ETP MADE BY THE TAXPAYER.**
11 **AN ANNUAL LIMIT ON THE ALLOWED ETP DEDUCTIBLE**
12 **EXPENSE PER TAXPAYER MAY BE SET BY THE**
13 **COMMISSIONER WITH THE APPROVAL OF THE**
14 **SECRETARY OF FINANCE.**

15
16 **ELECTRONICALLY TRACEABLE PAYMENTS REFER TO**
17 **CREDIT CARD, DEBIT CARD, OR OTHER METHODS OF**
18 **PAYMENT WITH A SYSTEM TO VERIFY OR LINK THE**
19 **PAYMENT TO THE IDENTITY OF PAYOR.**

20
21 "The data processing of sales and purchase data shall comply
22 with the provisions of Republic Act No. 10173, otherwise known
23 as the 'Data Privacy Act' and Section 270 of the NIRC, as
24 amended, on unlawful divulgence of taxpayer information and
25 such other laws relating to the confidentiality of information.

26
27 "The Bureau shall also establish policies, risk management
28 approaches, actions, trainings, and technologies to protect the
29 cyber environment, organization, and data in compliance with
30 Republic Act No. 10175 or the 'Cybercrime Prevention Act of
31 2012.'"

32
33 **SEC. 7.** Section 255 of the NIRC, as amended, is hereby amended to read as
34 follows:

35
36 "SEC. 255. Failure to File Return, Supply Correct and Accurate
37 Information, Pay Tax Withhold and Remit Tax and Refund Excess
38 Taxes Withheld on Compensation. - Any person required under
39 this Code or by rules and regulations promulgated thereunder to
40 pay any tax, make a return, keep any record, or supply correct
41 and accurate information, who willfully fails to pay such tax,
42 make such return, keep such record, or supply correct and
43 accurate information, or withhold or remit taxes withheld, or
44 refund excess taxes withheld on compensation, at the time or

1 times required by law or rules and regulations shall, in addition
2 to other penalties provided by law, upon conviction thereof, be
3 punished by a fine of not less than [~~Ten thousand pesos~~
4 ~~(P10,000)~~] **ONE HUNDRED THOUSAND PESOS (P100,000)**
5 **BUT NOT MORE THAN TWO MILLION TWO HUNDRED**
6 **THOUSAND PESOS (P2,200,000)** and suffer imprisonment of
7 not less than one (1) year but not more than ten (10) years.

8
9 "Any person who attempts to make it appear for any reason that
10 he or another has in fact filed a return or statement, or actually
11 files a return or statement and subsequently withdraws the same
12 return or statement after securing the official receiving seal or
13 stamp of receipt of internal revenue office wherein the same was
14 actually filed shall, upon conviction therefore, be punished by a
15 fine of not less than [~~Ten thousand pesos (P10,000) but not more~~
16 ~~than Twenty thousand pesos (P20,000)~~] **ONE HUNDRED**
17 **THOUSAND PESOS (P100,000) BUT NOT MORE THAN**
18 **TWO MILLION TWO HUNDRED THOUSAND PESOS**
19 **(P2,200,000)** and suffer imprisonment of not less than one (1)
20 year but not more than three (3) years."

21
22 **SEC. 8.** Section 256 of the NIRC, as amended, is hereby amended to read as
23 follows:

24
25 "SEC. 256. Penal Liability of Corporations. – Any corporation,
26 association or general co-partnership liable for any of the acts or
27 omissions penalized under this Code, in addition to the penalties
28 imposed herein upon the responsible corporate officers,
29 partners, or employees shall, upon conviction for each act or
30 omission, be punished by a fine of not less than [~~Fifty thousand~~
31 ~~pesos (P50,000) but not more than One hundred thousand pesos~~
32 ~~(P100,000)~~] **TWO HUNDRED THOUSAND PESOS**
33 **(P200,000) BUT NOT MORE THAN TWO MILLION FOUR**
34 **HUNDRED THOUSAND PESOS (P2,400,000)."**

35
36 **SEC. 9.** Section 257 of the NIRC, as amended, is hereby amended to
37 read as follows:

38
39 "SEC. 257. Penal Liability for Making False Entries, Records or
40 Reports, or Using Falsified or Fake Accountable Forms. –
41 "(A) Any financial officer or independent Certified Public
42 Accountant engaged to examine and audit books of accounts of
43 taxpayers under Section 232 (A) and any person under his
44 direction who:

1 "(1) Willfully falsifies any report or statement bearing on any
2 examination or audit, or renders a report, including exhibits,
3 statements, schedules or other forms of accountancy work which
4 has not been verified by him personally or under his supervision
5 or by a member of his firm or by a member of his staff in
6 accordance with sound auditing practices; or
7 "(2) Certifies financial statements of a business enterprise
8 containing an essential misstatement of facts or omission in
9 respect of the transactions, taxable income, deduction and
10 exemption of his client; or
11 "(B) Any person who:
12 "(1) Not being an independent Certified Public Accountant
13 according to Section 232(B) or a financial officer, examines and
14 audits books of accounts of taxpayers; or
15 "(2) Offers to sign and certify financial statements without audit;
16 or
17 "(3) Offers any taxpayer the use of accounting bookkeeping
18 records for internal revenue purposes not in conformity with the
19 requirements prescribed in this Code or rules and regulations
20 promulgated thereunder; or
21 "(4) Knowingly makes any false entry or enters any false or
22 fictitious name in the books of accounts or record mentioned in
23 the preceding paragraphs; or
24 "(5) Keeps two (2) or more sets of such records or books of
25 accounts; or
26 "(6) In any way commits an act or omission, in violation of the
27 provisions of this Section; or
28 "(7) Fails to keep the books of accounts or records mentioned in
29 Section 232 in a native language, English [~~or Spanish~~], or to
30 make a true and complete translation as required in Section 234
31 of this Code, or whose books of accounts or records kept in a
32 native language, English [-], and found to be at material variance
33 with books or records kept by him in another language; or
34 "(8) Willfully attempts in any manner to evade or defeat any tax
35 imposed under this Code, or knowingly uses fake or falsified
36 revenue official **BILLS**, receipts. Letters of Authority, certificates
37 authorizing registration. Tax Credit Certificates, Tax Debit
38 Memoranda and other accountable forms shall, upon conviction
39 for each act or omission, be punished by a fine not less than
40 ~~[Fifty thousand pesos (P50,000) but not more than One hundred~~
41 ~~thousand pesos (P100,000)]~~ **THREE HUNDRED THOUSAND**
42 **PESOS (P300,000) BUT NOT MORE THAN ONE MILLION**
43 **TWO HUNDRED THOUSAND PESOS (P1,200,000)** and suffer

1 imprisonment of not less than two (2) years but not more than
2 six (6) years.

3 "If the offender is a Certified Public Accountant, his [certificate]
4 **LICENSE** as a Certified Public Accountant shall be automatically
5 revoked or cancelled upon conviction.

6 "In the case of foreigners, conviction under this Code shall result
7 in [his] **THEIR** immediate deportation after serving sentence,
8 without further proceedings for deportation."
9

10 **SEC. 10. Integration of Block Chain Technology in the Electronic Sales Reporting**
11 *System.* – A "blockchain" is a mathematically secured, chronological, and decentralized
12 ledger or database. The Bureau of Internal Revenue shall appoint a Technical Working
13 Group (TWG) to evaluate and formulate a plan to integrate Block Chain Technology into
14 the Electronic Sales Reporting System. The TWG shall include participants from all of
15 the following: Three resource persons from the technology industry; three resource
16 persons from private sector accounting firms who are lawyers; two resource persons
17 from Civil Society Organizations representing consumer rights and/or privacy concerns;
18 a resource person from the Department on Information Communications Technology;
19 and a resource person from the National Privacy Commission.
20

21 **SEC. 11. Separability Clause.** – If any provision or part hereof, is held invalid or
22 unconstitutional, the remainder of the Act or the provision not otherwise affected shall
23 remain subsisting.
24

25 **SEC. 12. Repealing Clause.** – Any law, presidential decree or issuance, executive
26 order, letter of instruction, administrative order, rule or regulation contrary to, or
27 inconsistent with the provisions of this Act is hereby repealed, modified, or amended
28 accordingly.
29

30 **SEC. 13. Effectivity.** – This Act shall take effect following its complete publication
31 in the Official Gazette or in two (2) newspaper of general circulation.
32

Approved,