

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

SENATE
Office of the Senator

SENATE
S.B. No. 406

'19 JUL 11 P 4:33

Introduced by **SENATOR IMEE R. MARCOS**

RECEIVED BY

**AN ACT AMENDING SECTIONS 34, 110, 113, 237-A, 255, 256, AND 257 OF
THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED,
AND FOR OTHER PURPOSES.**

EXPLANATORY NOTE

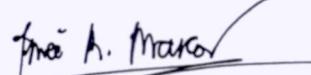
Taxation is the lifeblood of the government, and improving tax collection and revenue generation, while eliminating corruption and inefficiency, provide impetus for a more perfect state capable of fulfilling the social contract and upholding the welfare of the Filipino public.

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 production 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 urgently sought.


IMEE R. MARCOS
Senator

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Introduced by **SENATOR IMEE R. MARCOS**

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THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED,
AND FOR OTHER PURPOSES.**

*Be it enacted by the Senate and the 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 SECTION 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
9 address substantiation requirements and help avoid fraudulent business
10 transactions by facilitating audit by the tax collectors.
11 3) To lay the foundation for a more sophisticated system of tax compliance
12 and monitoring of business transactions at the point-of-sale leading to the
13 deterrence of tax evasion and development of an institutional framework
14 for incentives to taxpayers who will utilize the electronic system and front
15 load their tax liabilities.

16 SECTION 3. Section 34 (A) (1) (b) is hereby amended to read as follows:
17 "SEC. 34. xxx:
18 (A) Expenses. - xxx
19 (1) Ordinary and Necessary Trade, Business or Professional Expenses. -
20 (a) In General. - xxx
21 (b) Substantiation Requirements. - No deduction from gross income shall be allowed
22 under Subsection (A) hereof unless the taxpayer shall substantiate with [sufficient
23 evidence such as official receipts and other adequate records] **A VAT / NONVAT**
24 **OFFICIAL BILL AS PROVIDED FOR IN SECTION 113 OF THIS CODE,** (i) the
25 amount of the expense being deducted, and (ii) the direct connection or relation of the
26 expense being deducted to the development, management, operation and/or conduct
27 of the trade, business or profession of the taxpayer."

28 SECTION 4. Section 110 is hereby amended to read as follows:
29 "SEC. 110. Tax Credits. -
30 A. Creditable Input Tax. –
31 (1) Any input tax evidenced by a [VAT invoice or official receipt] **VAT OFFICIAL BILL**
32 issued in accordance with Section 113 hereof on the following transactions shall be
33 creditable against the output tax:
34 (a) Purchase or importation of goods:
35 (i) For sale; or

1 (ii) For conversion into or intended to form part of a finished product for sale including
2 packaging materials; or
3 (iii) For use as supplies in the course of business; or
4 (iv) For use as materials supplied in the sale of service; or
5 (v) For use in trade or business for which deduction for depreciation or amortization is
6 allowed under this Code.

7 (b) Purchase of services on which a value-added tax has been actually paid.
8 (2) The input tax on domestic purchase or importation of goods or properties by a VAT-
9 registered person shall be creditable:
10 (a) To the purchaser upon consummation of sale and on importation of goods or
11 properties; and
12 (b) To the importer upon payment of the value-added tax prior to the release of the
13 goods from the custody of the Bureau of Customs.

14 xxx

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

17 (a) Total input tax which can be directly attributed to transactions subject to value-
18 added tax; and
19 (b) A ratable portion of any input tax which cannot be directly attributed to either
20 activity.

21 The term "input tax" means the value-added tax due from or paid by a VAT-registered
22 person in the course of his trade or business on importation of goods or local purchase
23 of goods or services, including lease or use of property, from a VAT-registered person,

SUBJECT TO THE PROVISIONS OF SECTION 113.

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

28 (B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax
29 exceeds the input tax, the excess shall be paid by the VAT-registered person. If the
30 input tax exceeds the output tax, the excess shall be carried over to the succeeding
31 quarter or quarters. Provided, however, That any input tax attributable to zero-rated
32 sales by a VAT-registered person may at his option be refunded or credited against
33 other internal revenue taxes, subject to the provisions of Section 112.

34 (C) Determination of Creditable Input Tax. - xxx"

35

36 SECTION 5. Sections 113 (A) and (B) of the Tax Code is hereby amended to read
37 as follows:

38 "SEC. 113. Billing and Accounting Requirements for VAT-Registered Persons. -

39 (A) Billing Requirements. – A VAT-registered person shall issue
40 [1] A VAT bill for every sale, barter or exchange of goods or properties; and
41 (2) A VAT official receipt for every lease of goods or properties, and for every sale,
42 barter or exchange of services]

43 **1. AN OFFICIAL VAT BILL FOR EVERY SALE, BARTER OR EXCHANGE OF
44 GOODS OR PROPERTIES, EVERY LEASE OF GOODS OR PROPERTIES, AND FOR
45 EVERY SALE, BARTER OR EXCHANGE OF SERVICES.**

46 **2. SAID OFFICIAL BILL SHALL BE PURCHASED OR SOURCED
47 ELECTRONICALLY FROM THE BUREAU OF INTERNAL REVENUE AND NO
48 OTHER DOCUMENT OTHER THAN SAID OFFICIAL BILL SHALL BE ALLOWED
49 AS CLAIM OF INPUT TAX CREDIT. PROVIDED THAT, THOSE UNDER THE
50 COMPUTERIZED ACCOUNTING SYSTEM OR E-BILLING SHALL BE REQUIRED
51 TO CONNECT ELECTRONICALLY TO THE SYSTEM OF THE BUREAU OF
52 INTERNAL REVENUE IN ORDER TO ISSUE THE OFFICIAL VAT BILL.**

53 (B) Information Contained in the Official VAT bill. - The following information shall be
54 indicated in the [VAT invoice or VAT official receipt] **OFFICIAL VAT BILL:**

- 1 (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's
2 Identification Number (TIN); and
3 (2) The total amount which the purchaser pays or is obligated to pay to the seller with
4 the indication that such amount includes the value-added tax. Provided, That:
5 (a) The amount of the tax shall be known as a separate item in the bill [or receipt];
6 (b) If the sale is exempt from value-added tax, the term "VAT-exempt sale" shall be
7 written or printed prominently on the bill [or receipt];
8 (c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated
9 sale" shall be written or printed prominently on the bill [or receipt].
10 (d) If the sale involved goods, properties or services some of which are subject to and
11 some of which are VAT zero-rated or VAT exempt, the bill [or receipt] shall clearly
12 indicate the break-down of the sale price between its taxable, exempt and zero-rated
13 components, and the calculation of the value-added tax on each portion of the sale
14 shall be known on the invoice [or receipt]: Provided, That the seller may issue separate
15 bills [or receipts] for the taxable, exempt, and zero-rated components of the sale.
16 (3) The date of transaction, quantity, unit cost and description of the goods or
17 properties or nature of the service; and
18 (4) The name, business style, if any, address and Taxpayer Identification Number (TIN)
19 of the purchaser, customer or client.

20 (C) Accounting Requirements. – xxx

21 [(D) Consequence of Issuing Erroneous VAT Bill or VAT Official Receipt.-

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

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

25 (i) The tax imposed in Section 106 or 108 without the benefit of any input tax credit;
26 and

27 (ii) A 50% surcharge under Section 248(B) of this Code;

28 (b) The VAT shall, if the other requisite information required under Subsection (B)
29 hereof is shown on the invoice or receipt, be recognized as an input tax credit to the
30 purchaser under Section 110 of this Code.

31 (2) If a VAT-registered person issues a VAT bill or VAT official receipt for a VAT-exempt
32 transaction, but fails to display prominently on the bill or receipt the term 'VAT exempt
33 sale,' the issuer shall be liable to account for the tax imposed in section 106 or 108 as if
34 Section 109 did not apply.]

35 [(E)] (D) Transitional Period. – Notwithstanding Subsection (B) hereof, taxpayers may
36 continue to issue VAT bills and VAT official receipt for the period [July 1, 2005 to
37 December 31, 2005] **JANUARY 1, 2020 TO DECEMBER 31, 2021** in accordance
38 with Bureau of Internal Revenue administrative practices that existed as of [December
39 31, 2004] **DECEMBER 31, 2019**.

40 SECTION 6. Section 237 (A) of the National Internal Revenue Code of 1997, as
41 amended, is hereby amended to read as follows:

42 "SEC. 237-A. Electronic Sales Reporting System. – Within five (5) years from the
43 effectivity of this Act and upon the establishment of a system capable of storing and
44 processing the required data, the Bureau shall require taxpayers engaged in the export
45 of goods and services, and taxpayers engaged in e-commerce and taxpayers under the
46 jurisdiction of the Large Taxpayers Service to **USE A SYSTEM CAPABLE OF**
47 **ISSUING ELECTRONIC RECEIPTS OR SALES OR COMMERCIAL INVOICES,**
48 **COLLECT TRANSACTION RECORDS, AND TRANSMIT THE SAME THROUGH**
49 **THE DESIGNATED ELECTRONIC CHANNELS OF THE BUREAU IN THE**
50 **STANDARD FORMAT REQUIRED** [electronically report their sales data to the Bureau
51 through the use of electronic point of sales systems,] subject to the rules and
52 regulations to be issued by the Secretary of Finance upon recommendation of the
53 Commissioner of Internal Revenue: Provided, That the POINT OF SALE (POS) machines,

1 **VALUE-ADDED NETWORK (VAN) TERMINALS**, fiscal devices, and fiscal memory
2 devices **WITH CAPACITY TO MAKE SUCH TRANSMISSION** shall be at the expense
3 of the taxpayers: **PROVIDED, FURTHER, SUBJECT TO THE RULES AND**
4 **REGULATIONS TO BE ISSUED BY THE SECRETARY OF FINANCE, THE**
5 **COMMISSIONER MAY REQUIRE ANY TAXPAYER TO COMPLY WITH THE**
6 **PROVISIONS OF THIS SECTION.**

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

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

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

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

25 SECTION. 7. Section 255 of the National Internal Revenue Code of 1997, as
26 amended, is hereby amended to read as follows:

27 "SEC. 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax
28 Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation. – Any
29 person required under this Code or by rules and regulations promulgated thereunder to
30 pay any tax, make a return, keep any record, or supply correct and accurate
31 information, who willfully fails to pay such tax, make such return, keep such record, or
32 supply correct and accurate information, or withhold or remit taxes withheld, or refund
33 excess taxes withheld on compensation, at the time or times required by law or rules
34 and regulations shall, in addition to other penalties provided by law, upon conviction
35 thereof, be punished by a fine of not less than [Ten thousand pesos (P10,000)] **ONE**
36 **HUNDRED THOUSAND PESOS (P100,000) BUT NOT MORE THAN TWO**
37 **MILLION TWO HUNDRED THOUSAND PESOS (P2,200,000)** and suffer
38 imprisonment of not less than one (1) year but not more than ten (10) years.

39 "Any person who attempts to make it appear for any reason that he or another has in
40 fact filed a return or statement, or actually files a return or statement and subsequently
41 withdraws the same return or statement after securing the official receiving seal or
42 stamp of receipt of internal revenue office wherein the same was actually filed shall,
43 upon conviction therefore, be punished by a fine of not less than [Ten thousand pesos
44 (P10,000) but not more than Twenty thousand pesos (P20,000)] **ONE HUNDRED**
45 **THOUSAND PESOS (P100,000) BUT NOT MORE THAN TWO MILLION TWO**
46 **HUNDRED THOUSAND PESOS (P2,200,000)** and suffer imprisonment of not less
47 than one (1) year but not more than three (3) years."

49 SECTION. 8. Section 256 of the National Internal Revenue Code of 1997, as
50 amended, is hereby amended to read as follows:

51 "SEC. 256. Penal Liability of Corporations. – Any corporation, association or general co-
52 partnership liable for any of the acts or omissions penalized under this Code, in
53 addition to the penalties imposed herein upon the responsible corporate officers,
54 partners, or employees shall, upon conviction for each act or omission, be punished by

1 a fine of not less than [Fifty thousand pesos (P50,000) but not more than One hundred
2 thousand pesos (P100,000)] **TWO HUNDRED THOUSAND PESOS (P200,000) BUT**
3 **NOT MORE THAN TWO MILLION FOUR HUNDRED THOUSAND PESOS**
4 **(P2,400,000).**"

5
6 SECTION. 9. Section 257 of the National Internal Revenue Code of 1997, as
7 amended, is hereby amended to read as follows:

8 "SEC. 257. Penal Liability for Making False Entries, Records or Reports, or Using
9 Falsified or Fake Accountable Forms. –

10 "(A) Any financial officer or independent Certified Public Accountant engaged to
11 examine and audit books of accounts of taxpayers under Section 232 (A) and any
12 person under his direction who:

13 "(1) Willfully falsifies any report or statement bearing on any examination or audit, or
14 renders a report, including exhibits, statements, schedules or other forms of
15 accountancy work which has not been verified by him personally or under his
16 supervision or by a member of his firm or by a member of his staff in accordance with
17 sound auditing practices; or

18 "(2) Certifies financial statements of a business enterprise containing an essential
19 misstatement of facts or omission in respect of the transactions, taxable income,
20 deduction and exemption of his client; or

21 "(B) Any person who:

22 "(1) Not being an independent Certified Public Accountant according to Section 232(B)
23 or a financial officer, examines and audits books of accounts of taxpayers; or

24 "(2) Offers to sign and certify financial statements without audit; or

25 "(3) Offers any taxpayer the use of accounting bookkeeping records for internal
26 revenue purposes not in conformity with the requirements prescribed in this Code or
27 rules and regulations promulgated thereunder; or

28 "(4) Knowingly makes any false entry or enters any false or fictitious name in the books
29 of accounts or record mentioned in the preceding paragraphs; or

30 "(5) Keeps two (2) or more sets of such records or books of accounts; or

31 "(6) In any way commits an act or omission, in violation of the provisions of this
32 Section; or

33 "(7) Fails to keep the books of accounts or records mentioned in Section 232 in a
34 native language, English [or Spanish], or to make a true and complete translation
35 as required in Section 234 of this Code, or whose books of accounts or records kept in
36 a native language, English [or Spanish], and found to be at material variance with
37 books or records kept by him in another language; or

38 "(8) Willfully attempts in any manner to evade or defeat any tax imposed under this
39 Code, or knowingly uses fake or falsified revenue official **BILLS**, receipts, Letters of
40 Authority, certificates authorizing registration, Tax Credit Certificates, Tax Debit
41 Memoranda and other accountable forms shall, upon conviction for each act or
42 omission, be punished by a fine not less than [Fifty thousand pesos (P50,000) but not
43 more than One hundred thousand pesos (P100,000)] **THREE HUNDRED THOUSAND**
44 **PESOS (P300,000) BUT NOT MORE THAN ONE MILLION TWO HUNDRED**
45 **THOUSAND PESOS (P1,200,000)** and suffer imprisonment of not less than two (2)
46 years but not more than six (6) years.

47 "If the offender is a Certified Public Accountant, his certificate as a Certified Public
48 Accountant shall be automatically revoked or cancelled upon conviction.

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

52
53 SECTION 10. *Integration of Block Chain Technology in the Electronic Sales*
54 *Reporting System-* A "blockchain" is a mathematically secured, chronological, and

1 decentralized ledger or database. The Bureau shall appoint a Technical Working Group
2 (TWG) to evaluate and formulate a plan to integrate Block Chain Technology into the
3 Electronic Sales Reporting System. The TWG shall include participants from all of the
4 following: Three resource persons from the technology industry; three resource persons
5 from private sector accounting firms who are lawyers; two resource persons from Civil
6 Society Organizations representing consumer rights and/or privacy concerns; a resource
7 person from the Department on Information Communications Technology; and a
8 resource person from the National Privacy Commission.

9

10 SECTION 11. *Separability Clause.* - If any provision or part hereof, is held invalid
11 or unconstitutional, the remainder of the Act or the provision not otherwise affected
12 shall remain subsisting.

13

14 SECTION 12. *Repealing Clause.* - Any law, presidential decree or issuance,
15 executive order, letter of instruction, administrative order, rule or regulation contrary to,
16 or inconsistent with the provisions of this Act is hereby repealed, modified, or amended
17 accordingly.

18

19 SECTION 13. *Effectivity.* – This Act shall take effect on January 1, 2020 following
20 its complete publication in the Official Gazette or in 2 newspaper of general circulation.

Approved,