

**[ REPUBLIC ACT NO. 7716, May 05, 1994 ]**

**AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM,  
WIDENING ITS TAX BASE AND ENHANCING ITS  
ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND  
REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL  
INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER  
PURPOSES**

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

SECTION 1. Section 99 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 99. *Persons Liable.* — Any person who, in the course of trade or business, sells, barter, exchanges, leases goods or properties, renders services, and any person who imports goods shall be liable to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.

"The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of this Act.

"The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

"The rule of regularity, to the contrary, notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business."

SEC . 2. Section 100 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 100. *Value-added tax on sale of goods or properties.* — (a) *Rate and base of tax.* — There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to 10% of the gross selling price or gross value in money of

the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.

"(1) The term 'goods or properties' shall mean all tangible and intangible objects which are capable of pecuniary estimation and shall include:

"(A) Real properties held primarily for sale to customers or held for lease in the ordinary course of trade or business;

"(B) The right or the privilege to use patent, copyright, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

"(C) The right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment;

"(D) The right or the privilege to use motion picture films, films, tapes and discs; and

"(E) Radio, television, satellite transmission and cable television time.

"The term 'gross selling price' means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

"(2) The following sales by VAT-registered persons shall be subject to 0%:

"(A) *Export sales.* — The term 'export sales' means:

"(i) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

"(ii) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

"(iii) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

"(iv) Sale of gold to the Bangko Sentral ng Pilipinas (BSP); and

"(v) Those considered export sales under Executive Order No. 226,

otherwise known as the Omnibus Investment Code of 1987, and other special laws.

"(B) *Foreign currency denominated sale.* — The phrase 'foreign currency denominated sale' means sale to a nonresident of goods, except those mentioned in Sections 149 and 150, assembled or manufactured in the Philippines for delivery to a resident in the Philippines, paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

"(C) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero-rate.

"(b) *Transactions deemed sale.* — The following transactions shall be deemed sale:

"(1) Transfer, use, or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business.

"(2) Distribution or transfer to:

"(A) Shareholders or investors as share in the profits of the VAT-registered persons; or

"(B) Creditors in payment of debt.

"(3) Consignment of goods if actual sale is not made within 60 days following the date such goods were consigned.

"(4) Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation.

"(c) *Changes in cessation of status of a VAT-registered person.* — The tax imposed in paragraph (a) of this section shall also apply to goods disposed of or existing as of a certain date if under circumstances to be prescribed in regulations to be promulgated by the Secretary of Finance, the status of a person as a VAT-registered person changes or is terminated.

"(d) *Determination of the tax.* — (1) The tax shall be computed by multiplying the total amount indicated in the invoice by 1/11.

"(2) *Sales returns, allowances and sales discounts.* — The value of goods or properties sold and subsequently returned or for which allowances were granted by a VAT-registered person may be deducted from the gross sales or receipts for the quarter in which a refund is made or a credit memorandum or refund is issued. Sales discount granted and indicated in the invoice at the time of sale and the grant of which does not depend upon the happening of a future event may be excluded from the gross sales within the same quarter it was given.

"(3) Authority of the Commissioner to determine the appropriate tax base. — The Commissioner shall, by regulations, determine the appropriate tax base in cases where a transaction is deemed a sale, barter or exchange of goods or properties under paragraph (b) hereof, or

where the gross selling price is unreasonably lower than the actual market value."

SEC. 3. Section 102 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 102. *Value-added tax on sale of services and use or lease of properties.* — (a) *Rate and base of tax.* — There shall be levied, assessed and collected, a value-added tax equivalent to 10% of gross receipts derived from the sale or exchange of services, including the use or lease of properties.

"The phrase 'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; operators of taxicabs; utility cars for rent or hire driven by the lessees (rent-a-car companies), tourist buses; and other common carriers by land, air, and sea relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 117 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances) including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:

"(1) The lease or the use of or the right or privilege to use any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

"(2) The lease or the use of, or the right to use of any industrial, commercial or scientific equipment;

"(3) The supply of scientific, technical, industrial or commercial knowledge or information;

"(4) The supply of any assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of any such property, or right as is mentioned in subparagraph (2) or any such knowledge or information as is mentioned in subparagraph (3); or

"(5) The supply of services by a nonresident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery, or other apparatus purchased from such nonresident person;

"(6) The supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

"(7) The lease of motion picture films, films, tapes and discs; and  
"(8) The lease or the use of or the right to use radio, television, satellite transmission and cable television time.

"Lease of properties shall be subject to the tax herein imposed irrespective of the place where the contract of lease or licensing agreement was executed if the property is leased or used in the Philippines.

"The term 'gross receipts' means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.

"(b) *Transactions subject to zero-rate.* — The following services performed in the Philippines by VAT-registered persons shall be subject to 0%:

"(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

"(2) Services other than those mentioned in the preceding subparagraph, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

"(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero rate.

"(4) Services rendered to vessels engaged exclusively in international shipping; and

"(5) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production.

"(c) *Determination of the tax.* — The tax shall be computed by multiplying the total amount indicated in the official receipt by 1/11."

Sec. 4. Section 103 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"Sec. 103. *Exempt transactions.* — The following shall be exempt from the value-added tax:

"(a) Sale of nonfood agricultural products; marine and forest products in their original state by the primary producer or the owner of the land where the same are produced;

"(b) Sale of cotton and cotton seeds in their original state; and copra;