REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

December 5, 2014

REVENUE REGULATIONS NO. 11-2014

SUBJECT : Amending Further the Provisions of Section 2.57.2 of Revenue Regulations No. 2-98, as Amended, Particularly Subsection (M), (S), and (W), Creating a Separate Sub-Section for the Withholding of Creditable Income Tax on Real Estate Investment Trust (REIT) and Reclassifying the Treatment of Locally Produced Raw Sugar as a Separate Subsection for Purposes of the Creditable Withholding Tax

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. – Pursuant to the provisions of Section 244, in relation to Section 57(B) of the National Internal Revenue Code (NIRC) of 1997, as amended, these Regulations are hereby promulgated to further amend the provisions of Section 2.57.2 of Revenue Regulations (RR) No. 2-98, as amended, particularly Subsections (M), (S), and (W) thereof, creating a separate sub-section for the withholding of creditable income tax on Real Estate Investment Trust (REIT) pursuant to RR No. 13-2011, and reclassifying the treatment of locally produced raw sugar as a separate subsection for purposes of the creditable withholding tax considering the peculiarity of operations by the sugar industry players being regulated by the Sugar Regulatory Administration (SRA).

SEC. 2. AMENDMENTS. – The pertinent provisions of Section 2.57.2 of RR No. 2-98, as amended, are hereby further amended to read as follows:

" **Sec. 2.57.2. Income payment subject to creditable withholding tax and rates prescribed thereon.** – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:

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(M) Income payment made by the top twenty thousand (20,000) private corporations to their local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax. - Income payments made by any of the top twenty thousand (20,000) private corporations, as determined by the Commissioner, xxx. For this purpose, an agricultural product in their original state as used in these Regulations, shall only include corn, coconut, copra, palay, rice, cassava, coffee, fruit, vegetable, marine food product, poultry and livestock.

xxx xxx xxx

(S) Income payments made to suppliers of agricultural products. – *Income* payments made to agricultural suppliers such as, but not limited to, payments made by hotels, restaurants, resorts, caterers, food processors, canneries, supermarkets, livestock, poultry, fish and marine product dealers, hardwares, factories, furniture shops and all other establishments, in excess of the cumulative amount of Three Hundred Thousand Pesos (P300,000.00) within the same taxable year. - One percent (1%);

The term "agricultural suppliers" refers to suppliers/sellers of agricultural, forest and marine food and non-food products, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption, and breeding stock and genetic materials therefor. "*Livestock*" shall include cow, bull and calf, pig, sheep, goat and other animals similar thereto. "*Poultry*" shall include fowl, duck, goose, turkey and other animals similar thereto. "*Marine product*" shall include fish and crustacean such as, but not limited to, eel, trout, lobster, shrimp, prawn, oyster, mussel and clam, shell and other aquatic products.

Meat, fruit, fish, vegetable and other agricultural and marine food products, even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, smoking or stripping, including those using advanced technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra-pack and other similar packaging method, shall still be covered by this subsection.

An agricultural food product shall include, but shall not be limited to the following: corn, coconut, copra, palay, cassava, coffee, etc. Polished and/or husked rice, corn grits and ordinary salt shall be considered as agricultural food products.

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(W) Income payments made by the top five thousand (5,000) individual taxpayers to their local/resident suppliers of goods and local/resident suppliers of services other than those already covered by other rates of withholding tax. - Income payments made by the top 5,000 individual taxpayers engaged in trade or business in the Philippines, as determined by the Commissioner xxx For this purpose, agricultural products in their original state as used in these Regulations, shall include only corn, coconut, copra, palay, rice, cassava, coffee, fruit, vegetable, marine food product, poultry and livestock.

xxx xxx xxx

(Z) Income payments to Real Estate Investment Trust (REIT). – Income payments made to corporate taxpayers duly registered with the Large Taxpayers Regular Audit Division 3 (now Regular LT Audit Division 3) of the Bureau of Internal Revenue, as REITs for purposes of availing the incentive provisions of Republic Act No. 9856, otherwise known as "The Real Estate Investment Trust Act of 2009", as implemented by RR No. 13-2011. – One percent (1%);

(AA) Income payments on locally produced raw sugar. – Proprietors or operators of sugar mills/refineries on their mill share, and direct buyers of Quedans or Molasses Storage Certificates from the sugar planters on locally produced raw sugar and molasses shall withhold the creditable income tax and remit the same to the BIR based on the applicable base price of ONE THOUSAND PESOS (P1,000.00) per FIFTY (50) kilogram (kg.) bag and FOUR THOUSAND PESOS (P4,000.00) per metric ton, respectively, subject, however, to adjustment, when deemed necessary by the Commissioner, upon consultation with the Administrator of the SRA. – One percent (1%).

For purposes of this subsection, the following terms shall have the following meaning:

(i) *Buyers of Quedan or Molasses Storage Certificates* – refer to traders or industry users duly accredited by the SRA who bid and/or purchase the Quedans or Molasses Storage Certificates from the sugar planters.

(ii) *Mill Share* – refers to payment to sugar mill/refinery by the sugar planter for the milling of sugarcane. As such, it is equivalent to a sale of locally produced raw sugar.

(iii) *Molasses Storage Certificate* – refers to the warehouse receipt issued by a sugar mill/refinery to the owner, as stated therein, attesting to the fact that the volume of molasses is stored at the mill's facilities, with the commitment that it will be delivered to the holder of said document upon demand.

(iv) *Sugar Mill/Refinery* – refers to a domestic company engaged in the business of milling sugarcane into raw sugar, or in the refining of raw sugar.

(v) *Sugar Planter* – refers to the original owner of sugarcane brought to the mill for milling purposes.

(vi) *Sugar Regulatory Administration (SRA)* – refers to an agency of the Philippine government under the Department of Agriculture, responsible for promoting the growth and development of the sugar industry, through greater participation of the private sector, and for improving the working conditions of the laborers, created by Executive Order No. 18, Series of 1986.

(vii) *Quedan* – refers to a warehouse receipt issued by a sugar mill/refinery to the owner as stated therein, attesting to the fact that the volume and class of sugar is kept at the said sugar mill/refinery, and with the commitment that it will be delivered to the holder of said document by the sugar mill's/ refinery's warehouseman upon demand. Quedan is issued in the name of the proprietor or operator of the sugar mill/refinery, for its mill share, and to the sugar planter, as owner of the sugarcane, as certified by SRA representative at the sugar mill/refinery.

(viii) *Trader* – refers to a domestic company or person given the authority and license by the SRA to engage in the business of trading sugar, molasses, or muscovado, as the case may be.

The Regional Director, through the recommendation of the Revenue District Officer, which has jurisdiction over the physical location of the sugar mills/refineries, shall issue the *Authorization Allowing the Release of Locally Produced Raw Sugar/Molasses* (Annexes "A" or "B", as applicable) to the proprietors or operators, for purposes of allowing the transfer/withdrawal of their mill share, or to the buyers of Quedans or Molasses Storage Certificates on the locally produced raw sugar, or molasses, for further processing into a refined sugar, consumption or other purposes: *Provided, however,* That, copies of proofs of payment of the creditable withholding tax due thereon (i.e., duly validated Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) [BIR Form No. 1601-E] and Bank Payment/Deposit Slip/Revenue Official Receipt [BIR Form No. 2524]) shall have been submitted and attached to the written request for said authorization.

Provided, finally, That, notwithstanding the presentation of proof of exemption from the payment of income tax (e.g., BIR ruling, special law, etc.), the concerned proprietor, or operator of the sugar mill/refinery, or any buyer of Quedan or Molasses Storage Certificate is still required to withhold and remit the creditable withholding tax."

SEC. 3. REPEALING CLAUSE. – All existing rules and regulations or parts thereof which are inconsistent with the provisions of these Regulations are hereby modified, amended, revoked or repealed accordingly. Moreover, these Regulations shall, in effect, lift the suspension of the implementation of withholding tax on income payments made on suppliers of agricultural products under Section 2.57.2 (S) of RR No. 2-98, as amended, as prescribed under RR No. 3-2004 insofar as locally produced raw sugar is concerned.

SEC. 4. EFFECTIVITY. – These Regulations shall take effect on January 1, 2015 following publication in a newspaper of general circulation.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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