REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 19, 2008

REVENUE REGULATIONS NO. 13 - 2008

SUBJECT : Consolidated Regulations on Advance Value Added Tax on the Sale of Refined Sugar; Amending and/or Revoking All Revenue Issuances Issued to this Effect, and for Other Related Purposes

TO : All Internal Revenue Officials, Employees and Others Concerned

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Section 1. Scope – Pursuant to the provisions of Sections 6 and 244, in relation to Sections 106, 109,110, and 111 (B)(1) all of the National Internal Revenue Code of 1977 (Code), as last amended by Republic Act No. 9337, in relation to Executive Order No. 18 dated May 28, 1986 *("Creating A Sugar Regulatory Administration")*, Sugar Order No. 1 issued every crop year to allocate the volume of and classifying the cane sugar produced each production year, and Sugar Order No. 4, Series of 2006-2007 (Conversion of "C" or Reserve Sugar into "D" or World Market Sugar and the Revised Sugar Classification and Percentage Allocation), these regulations are hereby promulgated (a) to prescribe the updated policies and procedures for the advance payment of value added tax (VAT) on the sale of refined sugar, including those made by a duly accredited and registered agricultural cooperative of good standing, (b) to prescribe policies and procedures for the recognition of classification of sugar and sugar products, (c) to provide for a monitoring system in the processing of raw sugar into refined sugar and the withdrawal thereof from the sugar refineries/mills, and (d) for other related purposes.

Sec. 2. Definition of Terms. – For purposes of these regulations the following terms will be construed to mean:

a) ***Refined Sugar*** – refers to sugar whose content of sucrose by weight, in the dry state corresponds to a polarimeter reading of 99.5° and above.

Cane sugar produced from the following shall be presumed, for internal revenue purposes, to be refined sugar:

(1) product of a refining process,
(2) products of a Sugar Refinery, or
(3) product of a production line of a sugar mill accredited by the Bureau of Internal Revenue (Bureau or BIR may be used interchangeably in these regulations) to be producing and/or capable of producing sugar with polarimeter reading of 99.5° and above, and for which the

quedan issued therefor as verified by the Sugar Regulatory Administration (SRA) identifies the sugar to be of a polarimeter reading of 99.5° and above.

Nonetheless, sugar produced from sugar production lines accredited by the Bureau to be capable of producing sugar with polarimeter reading of 99.5° or above shall be prima facie presumed to be refined sugar.

For this purpose, the Revenue District Office (RDO) having jurisdiction over the physical location of the sugar mill shall accredit the sugar mill production line as to their capability of producing sugar with a polarimeter reading of 99.5° or above. The result of said accreditation shall be published in a newspaper of general circulation.

(b) ***Raw Sugar*** – refers to sugar whose content of sucrose by weight in dry state, corresponds to a polarimeter reading of less than 99.5°. *Cane sugar* produced each production year shall be classified, for internal revenue purposes, as follows:

1. "A" is raw sugar which is intended for export to the United States Market.

2. "B" is raw sugar which is intended for the Domestic Market.

3. "C" is raw sugar which is reserved for, but have not yet matured for release to the Domestic Market.

4. "D" is raw sugar which is intended for export to the World Market.

5. "E" is reclassified "D" sugar for sale to Food Processors/Exporters operating Customs Bonded Warehouse (CBW) or to an enterprise located within the special processing export zone.

For this purpose, the Bureau shall require all sugar refineries/mills to submit to the Regional Director (RD)/ Revenue District Officer (RDO) where the mill site is physically located a Weekly Production Report **(Annex G)** which corresponds to the Weekly Report on Raw and Refined Sugar (SRA SMS form no. 1 and 2) required by the Sugar Regulatory Administration (SRA), indicating the volume and classification of each sugar produced as certified by the SRA. If the miller is registered as a Large Taxpayer, a copy of the said Weekly Production Report shall also be filed to the Large Taxpayers Service.

The Bureau shall assign a Revenue Officer On Mill Sites (ROOMS) who shall likewise monitor the volume of each class of sugar produced by all sugar refineries/mills through the sugar quedans issued, by submitting a sugar quedan register per sugar classification certified by the SRA. **(Annex G-1 for A, G-2 for B, G2-C, G3-D and G4-E)** (The ROOMs shall be provided by the BIR Office where the sugar central is registered.)

c) ***Sugar Refinery/Mill*** includes refiner and/or miller of refined sugar as defined in Subsection (a) hereof.

d) ***Sugar "Owners"*** as used in this regulations may refer to persons who have legal title over the refined sugar and may include any of the following :

1. Sugar Planters;
2. Traders;
3. Sugar Millers;
4. The Cooperative/s

Sec. 3. ***Requirement to Pay in Advance VAT on Sale of Refined Sugar.*** – In general, the advance VAT on the sale of refined sugar provided for under Sec. 8 hereof, shall be paid in advance by the owner/seller before the refined sugar is withdrawn from any sugar refinery/mill. Before the issuance of *Certificate of Advance Payment of VAT* **(Annex "E"),** the owner/seller shall file *Declaration for Advance Payment on Refined Sugar* **(Annex "B-1")** to the RD/RDO having jurisdiction over the place where the sugar mill is physically located and shall submit the following attachments:

1. Listing/Abstract of official Warehouse Receipt Quedan **(Annex "B-2")** in soft and hard copy;
2. Proof of Payment of Advance VAT on Sale of Refined Sugar.

The Sugar Refinery/Mill shall be required to submit *Monthly Report on the Quantity of Refined Sugar Milled/Produced and the Amount of Advance VAT Paid and Duly Remitted* **(Annex "J")** in order to confirm and/or verify that the requirements of this Section are complied with.

In cases where ownership of refined sugar is transferred by a cooperative, or by any owner to another person where the transaction would not qualify for the exemption provided for under Sec.4 hereof, the advance VAT on the sale of refined sugar shall be paid by the transferee-owner/seller to the RDO where the sugar central is located through the Authorized Agent Bank (AAB), whether manually or through Electronic Filing and Payment System (EFPS) of the Bureau, or to the Revenue Collection Officer (RCO) or deputized/authorized City or Municipal Treasurer in places where there are no Accredited Agent Banks (AABs), before any refined sugar can be withdrawn from any Sugar Refinery/Mill. Before the issuance of *Certificate of Advance Payment of VAT* **(Annex "E"),** the owner/seller shall file an application using **Annex "B-1**" to the RD/RDO having jurisdiction over the sugar mill and shall submit the following attachments:

1. Listing/Abstract of official Warehouse Receipt Quedan **(Annex "B-2");**in soft and hard copy
2. Proof of Payment of Advance VAT on Sale of Refined Sugar.

The transferor/seller shall be required to submit monthly report of sugar sold (*List of Buyers of Sugar* marked as **Annex "H"** hereof) in order to confirm and/or verify that the requirements of this Section are complied with.

Sec. 4. ***Exemption from the Payment of the Advance VAT.*** **–** Notwithstanding the provisions of the foregoing Section, the following withdrawals shall be exempt from the payment of the advance VAT:

(a) Withdrawal of Refined Sugar by Duly Accredited and Registered Agricultural Producer Cooperative of Good Standing. – In the event the

refined sugar is owned and withdrawn from the Sugar Refinery/Mill by an agricultural cooperative of good standing duly accredited and registered with the Cooperative Development Authority (CDA), which cooperative is the **agricultural producer** of the sugar cane that was refined into refined sugar, the withdrawal is not subject to the payment of advance VAT. The cooperative shall file an application for withdrawal using **Annex "A-1"**. Upon presentation of the *Authorization Allowing the Release of Refined Sugar* **(Annex "A")** and other documents prescribed in Sec. 5 hereof, the Sugar Refinery/Mill shall release the same but only after notifying the Revenue Officer On Mill Sites **(ROOMS)** of the time and date of the release of the sugar from the Sugar Refinery/Mill and the names and plate numbers of the sugar-carrying vehicles/trucks so that the release can be given proper supervision and that the advance VAT was collected from the transferee should evidence show that the refined sugar has already been sold under a circumstance that makes the sale thereof a taxable transaction.

A cooperative shall be considered in good standing if it is a holder of a *"Certificate of Good Standing"* issued by the CDA. A copy of the same shall be submitted to the BIR on or before April 30 of the following year.

A cooperative is said to be the producer of the sugar if it is the tiller of the land it owns, or leases, incurs cost of agricultural production of the sugar and produces the sugar cane to be refined.

Sale of sugar in its **original form** is always exempt from VAT regardless of who the seller is pursuant to Sec. 109 (A) of the Tax Code. On the other hand, sale of sugar, in its processed form, by a cooperative is exempt from VAT if the sale is made to members of the cooperative. Whereas, if the sale of sugar in its processed form is made by the cooperative to non-members, said sale is exempt from VAT only if the cooperative is an agricultural producer of the sugar cane that has been converted into refined sugar as herein defined and discussed.

Thus, withdrawal of refined sugar by the agricultural cooperative for sale to members is not subject to advance VAT whereas sale to non-members of said refined sugar is not subject to advance VAT only if the cooperative is the agricultural producer of the sugar cane that is the primary raw material in the manufacture of refined sugar.

It is hereby made clear that if the refined sugar is owned and withdrawn from the Sugar Refinery/Mill by a duly accredited cooperative of good standing with the CDA, which cooperative is not the agricultural producer of the sugar cane, the withdrawal of the refined sugar shall, in all instances, be subject to advance payment of VAT, unless the buyer who withdraws the refined sugar from the Sugar Refinery/Mill is a member of the cooperative.

(b) Withdrawal of Refined Sugar by Duly Accredited and Registered Agricultural Cooperative which is sold to another Agricultural cooperative. – If the owner of the refined sugar as reflected in the *quedan* is an agricultural cooperative which is the producer of the **sugar cane,** the sale of the resulting refined sugar to another agricultural cooperative is not subject to VAT

pursuant to Sec. 109 (L) of the Tax Code. The buyer-cooperative shall file an application as prescribed under Sec. 4 (a) hereof. Upon presentation of the *Authorization Allowing the Release of Refined Sugar* **(Annex "A")** and other documents prescribed in Sec. 5 hereof, the Sugar Refinery/Mill shall release the same but only after notifying the ROOMs assigned at the Sugar Refinery/Mill of the time and date of the release of the sugar from the Sugar Refinery/Mill and the names and plate numbers of the sugar-carrying vehicles/trucks so that the release can be given proper supervision and that the advance VAT has been paid by the transferee should evidence show that the refined sugar has already been sold by the buyer cooperative to another taxable entity. However, if the seller-cooperative is not an agricultural producer but merely purchases the sugar cane or the raw sugar from planter-members or transfer the raw sugar to cooperative through assignment, its sale of the resulting refined sugar to another agricultural cooperative shall be subject to VAT and its withdrawal from the Sugar Refinery/Mill will only be allowed upon payment of the advance VAT in the RDO having jurisdiction over the place of business of the cooperative.

Moreover, it is to be repeatedly emphasized that when the purchaser-cooperative of the refined sugar subsequently sells the same to another, whether or not a cooperative, the sale is always subject to VAT unless the buyer is a member of the seller cooperative.

Sec. 5. ***Documents Required as a Condition for Withdrawal or Transfer of Ownership of Refined Sugar.*** The proprietor of a Sugar Refinery/Mill shall not allow any withdrawal of refined sugar from its premises without the payment of advance VAT required under Sec. 3 hereof. Any person making the withdrawal or transfer shall submit proof of such payment as prescribe in Sec. 6 hereof.

(a) **Withdrawal or Transfer by duly accredited and registered agricultural producer cooperative.** – A duly accredited and registered agricultural producer cooperative which is allowed to withdraw refined sugar without the payment of the advance VAT shall submit to the Sugar Refinery/Mill the *Authorization Allowing the Release of Refined Sugar* (Annex "A") which shall be issued by the Regional Director/Revenue District Officer having jurisdiction of the place where the sugar central or mill is physically located after submission of the following document:

i. Sworn Statement **(Annex "C");**
ii. Listing/Abstract of official Warehouse Receipt Quedan **(Annex "B-2");** in soft and hard copy
iii. Weekly Production Report (in soft and hard copy) prior to withdrawal

(b) Withdrawal or Transfer by duly accredited and registered CBW Food Processor/Exporter, for export or sale to a Locator within a special export processing zone of refined "E" sugar. – Withdrawal or transfer of the refined "E" sugar shall be allowed by the Sugar Refinery/Mill only upon presentation of Certificate of Advance VAT payment **(Annex "E").**

In the event that the refined "E" sugar is actually exported or sold to registered enterprise in an economic zone, the advance VAT paid may be claimed for refund or issuance of Tax Credit Certificate by the payor pursuant to Sec. 204 of the Tax Code.

Sec. 6. ***Proof of Advance Payment of VAT.*** - The concerned RD/RDO having jurisdiction over the owner of the sugar refined in a Sugar Refinery/Mill shall issue a *Certificate of Advance Payment of the VAT* **(Annex "E")** as required under Sec. 3 hereof. This certificate shall serve as the authority of the Sugar Refinery/Mill to release the refined sugar described therein, and together with the Payment Form (BIR Form No. 0605 or its equivalent) and the BIR prescribed deposit slip duly validated by the AAB (manual/EFPS) or the Revenue Official Receipt (ROR) issued by the RCO or the deputized/authorized City or Municipal Treasurer, as the case may be, shall serve as proof of the payment for the advance VAT which can be credited against the VAT liability/payable in the Monthly VAT declaration or Quarterly VAT return to be filed.

Sec. 7. ***Proof of Exemption from the Advance Payment of VAT.*** – If a duly accredited and registered agricultural producer cooperative of good standing which is allowed to withdraw refined sugar without advance payment of VAT claims ownership of the refined sugar stocked in the Sugar Refinery/Mill, the latter shall not release the said refined sugar unless an *Authorization Allowing the Release of Refined Sugar* **(Annex "A")** is first secured from the concerned RD/RDO having jurisdiction over the owner of the refined sugar. In securing such authorization, the cooperative-owner shall, in addition to that of satisfying VAT-exemption requirements under RR No. 20-2001, submit to the concerned RDO a *Sworn Statement* **(Annex "C")** to the effect that:

(a) The cooperative-owner of the refined sugar is an agricultural producer as defined in this Regulation; and

(b) The refined sugar is the property of the cooperative at the time of removal and it will not charge advance VAT or any other tax to the future buyer.

If the cooperative invokes ownership over the sugar cane and the refined/milled sugar, the sugar *quedans* must be in the name of the duly registered agricultural cooperative.

For exempt withdrawals, the Sugar Refinery/Mill shall require the submission of the *Authorization Allowing the Release of Refined Sugar* **(Annex "B"),** the duly accomplished *Sworn Statement* **(Annex "D")** specifying therein the transferee, and the name of the owner of the sugar as reflected in the *quedan.*

Sec. 8. ***Basis for Determining the Amount of Advance VAT Payment.*** –

a) *Base Price.* - The amount of advance VAT payment shall be determined by applying the VAT rate of 12% on the applicable base price of P 850.00 per 50 kg. bag for refined sugar produced by a Sugar Refinery, and P 760.00 per 50 kg. bag for refined sugar produced by a Sugar Mill.

b) *Subsequent Base Price Adjustments.* - The base price upon which the advance payment of VAT will be computed under the preceding paragraph shall be adjusted when deemed necessary by the Commissioner, upon consultation with the Chairman of the SRA.

Sec. 9. ***Credit for Advance VAT Payments.*** – In addition to the input tax credits allowed under Section 110 of the Code, the amount of advance VAT payments made by sellers of refined sugar under these regulations shall be allowed as credit against their output tax on the

actual gross selling price of refined sugar. The *Certificate of Advance Payment of the VAT* **(Annex "E")** issued under Sec. 6 hereof and a copy of the payment form shall be attached to the Monthly VAT declaration/Quarterly VAT return to support the claim for credit of advance VAT payment.

Sec. 10. ***Presumptive Input Tax.*** – Persons or firms engaged in the manufacturing of refined sugar for their own account shall be allowed a presumptive input tax, which is creditable against the output tax, equivalent to four (4%) percent of the gross value in money of their purchases of primary agricultural products which are used as inputs to their production. Primary agricultural products shall be limited to sugar cane which is the main raw material for the finish product "refined sugar".

Sec. 11. ***Place and Time of Remittance of Advance Payment of VAT.*** – The advance payment shall be made by the owner-seller of the refined sugar before the refined sugar is withdrawn and remit the same to any AAB (manual/EFPS) or RCO or deputized/authorized City or Municipal Treasurer of the RD/RDO having jurisdiction over the mill sites. However, if the owner-seller of the refined sugar is under the jurisdiction of the Large Taxpayers' Service (LTS) or Large Taxpayers District Office (LTDO), the remittance shall only be done through the Electronic Filing and Payment System (EFPS) or made to an Accredited Agent Bank (AAB) authorized to receive payment from large taxpayers to ensure proper crediting of payment.

Sec. 12. ***Information Returns to be Filed by the Proprietor or Operator of a Sugar Refinery/Mill, Cooperatives,.*** – Every proprietor or operator of a Sugar Refinery/Mill with production line accredited by the Bureau to be capable of producing sugar with a polarimeter reading of 99.5° or above, or mill producing sugar with polarimeter reading of 99.5° or above shall render an *Information Return* **(Annex "F")** to the RD/RDO having jurisdiction over the physical location of the Sugar Refinery/Mill not later than the 10th day following the end of the month. The aforesaid *Information Return* shall reflect the following information:

a) Name, Address, TIN and RDO number of the owners of the refined sugar;
b) Number of bags of refined sugar released as Owned by Others;
c) Number of bags of refined sugar released as Owned by the Sugar Refinery/Mill;
d) Amount of advance VAT paid by each owner.
e) Base price subjected to advance payment of VAT for each sugar owner; and
f) Base price not subjected to advance payment of VAT for each sugar owner.

The RDO that has jurisdiction over the physical location of the Sugar Refinery/Mill, in turn, shall give one copy of said information return to the RDO that has jurisdiction over the owner-seller of the refined sugar as well as to the RDO/LTDO/LTS that has jurisdiction over the sugar refinery/mill.

The cooperatives shall submit to the RD/RDO on or before September 15 of every year the list of their members as received by the Cooperative Development Authority (CDA) and can be updated as the need arises. In case, where the person withdrawing the sugar is not a member listed in the submitted list, he shall be required to pay the VAT due from such withdrawal prior to its release in the refinery and/or mill.

Every cooperative shall likewise submit monthly information return to the RDO having jurisdiction over the cooperative on or before the 15th day of the following month. The Information Return **(Annex "I")** referred to herein shall contain the following:

a) Name, Address, TIN and RDO number of the buyer of the refined sugar;
b) Number of bags of refined sugar sold to each buyer;
c) Amount of advance VAT paid on the withdrawal for destination to each buyer.
d) Base price subjected to advance payment of VAT on the withdrawal for destination to each buyer; and
e) Base price not subjected to advance payment of VAT on the withdrawal for destination to each buyer;

In relation to these requirements from cooperatives, no "*Authorization Allowing the Release of Refine Sugar*" shall be issued to any cooperative who:

1. Failed to submit the List of Buyers;
2. Who submitted the list of buyers but which buyers were discovered to have invalid TIN;
3. Submitted a List of Inventory, in lieu of List of Buyers on the allegation that the refined sugar remains unsold.

Failure on the part of the sugar cooperative to comply with the submission of the abovementioned requirements or supply any incorrect information to any of its filed application, or declaration, shall constitute a basis for the mandatory audits of the books of accounts and records of the cooperative as well as the books and records of entities transacting business with the cooperative.

The RDO that has jurisdiction over the cooperative shall share the information return to the RDO that has jurisdiction over the buyers.

Sec. 13. ***Issuance of Tax Credit Certificate (TCC) for Unutilized Advance VAT Payments.*** – The advance payments made by the seller/owner of refined sugar shall be allowed as credit against their output tax on the actual gross selling price of refined sugar. However, advance payments which remain unutilized at the end of taxpayer's taxable year where the advance payment was made, which is tantamount to excess payment, may, at the option of the owner/seller, be available for the issuance of TCC upon application duly filed with the BIR by the seller/owner within two (2) years from the date of filing of the 4th quarter VAT return of the year such advance payments were made, or if filed out of time, from the last day prescribed by law for filing the return.

Unutilized advance VAT payments which have been the subject of an application for the issuance of TCC shall not be allowed as carry-over nor credited against the output tax of the succeeding quarter/year.

Issuance of TCC shall be limited to the unutilized advance VAT payment and shall not include excess input tax. Issuance of TCC for input tax attributable to zero-rated sales shall be covered by a separate application for TCC following applicable pertinent rules.

Sec. 14. ***Penalty Clause.*** – Any violation of the provisions of these regulations shall be subject to penalties provided in Sections 254 and 275, and other pertinent provisions of the Code, as amended.

In accordance with the provisions of the NIRC of 1997, a person who fails to file, keep or supply a statement, list, or information required herein on the date prescribed therefore shall pay, upon notice and demand by the Bureau of Internal Revenue (BIR), an administrative penalty of One Thousand Pesos (P1,000) for each such failure, unless it is satisfactorily shown that such failure is due to reasonable causes and not due to willful neglect. For this purpose, the failure to supply the required information shall constitute a single act or omission punishable thereof. However, the aggregate amount to be imposed for all such failures during the year shall not exceed Twenty Five Thousand Pesos (P25,000).

In addition to the imposition of administrative penalty, willful failure by such person to keep any record and to supply the correct and accurate information at the time required herein, shall be subject to the criminal penalty under the relevant provisions of the Tax Code of 1997, upon conviction of the offender.

The imposition of any of the penalties under the Tax Code of 1997 and the compromise of the criminal penalty on such violations, notwithstanding, shall not in any manner relieve the violating taxpayer from the obligation to submit the required documents.

Finally, the corresponding administrative penalty shall be imposed on every violation of the provisions of these Regulations, upon due notice and demand by the BIR. A subpoena duces tecum for the submission of the required documents shall be issued on the second offense. A third offense shall set the motion for a criminal prosecution of the offender.

In cases where a violation hereof is allowed to be compromised, the submission of the unsubmitted lists should always form part of the obligation of the taxpayer to be embodied in the compromise agreement.

Sec. 15. ***Repealing Clause.*** – The provisions of all internal revenue issuances as well as rulings inconsistent herewith are hereby amended or revoked accordingly.

Sec. 16. ***Effectivity.*** – These regulations shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
LILIAN B. HEFTI
Commissioner of Internal Revenue