REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
**KAWANIHAN NG RENTAS INTERNAS**
Quezon City

March 21, 2007

**REVENUE REGULATIONS NO. 6-2007**

**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 Officers 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, as amended by Sugar Order No. 4-A, 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 classification of sugar and sugar products, (c) to provide for the monitoring system for the processing of raw sugar into refined sugar intended for the World Market (*"D"* sugar) or classified as *"E"* sugar or *"A"* sugar and the withdrawal thereof from the sugar refineries/mills, (d) to provide for the tax treatment of the raw sugar processed into refined sugar intended for the World Market (*"D"* sugar) or classified as *"E"* sugar or "A" sugar, and (e) 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 therefore as verified by the Sugar Regulatory Administration (SRA) identifies the produced 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 Customs Bonded Warehouse (CBW) Food Processors/Exporters.

For this purpose, the Bureau shall require all sugar refineries/mills to submit a *Production Report* (Annex "G") every month indicating the volume of each sugar classification produced as certified by the SRA. The Bureau shall likewise monitor the volume of each class of sugar produced through the sugar *quedans* issued, as verified by the SRA.

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

**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. For this purpose, refined sugar shall not be released unless the owner first secures a *Certificate of Advance Payment of VAT* (Annex "E") from the concerned RDO/Large Taxpayers Service (LTS), through Excise Tax Area (EXTA), or LTDO having jurisdiction over the Sugar Refinery/Mill. 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 to a buyer other than a cooperative, or by any owner to another person but 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 buyer to the Bureau 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 AABs, before any refined sugar can be withdrawn from any Sugar Refinery/Mill. 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.*** – The provisions of the foregoing Section to the contrary notwithstanding, the following withdrawals shall be exempt from the advance VAT:

**(a) Withdrawal of Refined Sugar by Duly Accredited and Registered agricultural Cooperative of Good Standing.** – In the event the refined sugar is owned and withdrawn from the Sugar Refinery/Mill by a duly accredited and registered agricultural cooperative of good standing with the Cooperative Development Authority (CDA), which cooperative is the producer of the sugar, the withdrawal is not subject to the payment of advance VAT. 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 RDO/LTS, through EXTA, or LTDO or the assigned duty officer having jurisdiction over 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 is collected from the transferee should evidence show that the refined sugar has already been sold by the cooperative.

However, withdrawal of refined sugar by the above-mentioned cooperative and sold to a trader is subject to VAT, unless the latter is a direct exporter.

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 producer of sugar, the withdrawal of the refined sugar shall, in all instances, be subject to advance payment of VAT.

**(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 a producer of sugar, the sale to another agricultural cooperative is not subject to VAT pursuant to Sec. 109(L) of the Tax Code. 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 RDO/LTS, through EXTA, or LTDO or the assigned duty officer having jurisdiction over 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 is

collected from 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 a producer but merely purchases the sugar cane from planter-members, its sale to another agricultural cooperative is subject to VAT and its withdrawal from the Sugar Refinery/Mill will only be allowed upon payment of the advance VAT.

Moreover, it is to be repeatedly emphasized that when the purchaser-cooperative of the refined sugar which was not subjected to advance VAT subsequently sells the same to another, whether or not a cooperative, the sale is always subject to VAT.

**(c) Withdrawal of Refined Sugar Sold to Direct Exporter.** – In instances where the raw sugar, which has been classified as *"A"* and *"D"* sugar by the SRA, respectively, is further processed into refined sugar, the refined *"A"* sugar or *"D"* sugar can be withdrawn from any Sugar Refinery/Mill without the imposition of the advance VAT on the sale of refined sugar if its transferee or buyer is a direct exporter (e.g., Registered Sugar Trader) of the refined "A" and/or "D" sugar under the classification made by SRA.

**(d) Withdrawal of Refined Sugar Sold to Customs Bonded Warehouse Food Processor/Exporter, or to an Enterprise Located Within a Special Export Processing Zone.** – Where the raw sugar previously classified as *"D"* sugar is reclassified as *"E"* sugar and is further processed into refined sugar, the refined *"E"* sugar can be withdrawn from any Sugar Refinery/Mill without the imposition of the advance VAT on the sale of refined sugar if the transferee or buyer is - a Customs Bonded Warehouse (CBW) food processor/exporter, or is located within a special export processing zone.

The owner of the refined sugar processed from the raw sugar classified as either *"A"* sugar, *"D"* sugar, or *"E"* sugar, shall present the *Authorization Allowing the Release of Refined Sugar* (Annex "B") and other documents prescribed in Sec. 5 hereof, to the Sugar Refinery/Mill and the latter shall release the same but only after notifying the RDO/LTS, through EXTA, or LTDO Division Chief or the assigned duty officer having jurisdiction over the refinery/mill of the time and date of release of the sugar from the 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 is collected from the transferee should evidence show that the refined sugar has already been sold by the owner to buyers other than the persons referred to in subsections (c) and (d) of this Section.

**Sec. 5.** ***Documents Required as a Condition for Withdrawal or Transfer of Ownership of Refined Sugar.*** – Except in cases of exempt withdrawals as provided in Sec. 4 hereof, the proprietor or operator of a Sugar Refinery/Mill shall not allow any withdrawal of refined sugar from its premises without the advance payment of VAT required under Sec. 3 hereof. Any person making the withdrawal or transfer shall submit proof of such payment as prescribed in Sec. 6 hereof.

Provided, that, if the withdrawal is made by a duly accredited and registered agricultural cooperative of good standing which is allowed to withdraw refined sugar without payment of advance VAT, as discussed in the preceding paragraphs, what shall be submitted to the Sugar

Refinery/Mill is the evidence of ownership of the refined sugar, the *Authorization Allowing the Release of Refined Sugar* (Annex "A"), and the *Sworn Statement* (Annex "C") prescribed for cooperatives.

Provided, further that, when the refined sugar is processed from the raw sugar which has been classified as *"A"* sugar, *"D"* sugar or *"E"* sugar per classification made by the SRA and the transferee or buyer of the *"A"* and *"D"* refined sugar is a direct exporter (to the U.S. market or world market), and for *"E"* sugar is a CBW food processor/exporter, or is located within a special export processing zone, the *quedan* of the *"A"* sugar, *"D"* sugar or *"E"* sugar from which the refined sugar is processed, will be submitted as proof of ownership and classification of the raw sugar processed. In addition, the *Authorization Allowing the Release of Refined Sugar* (Annex "B") and the *Sworn Statement* (Annex "D") provided in these regulations shall be presented to the Sugar Refinery/Mill.

The failure of the Sugar Refinery/Mill to comply with the foregoing shall be a ground for the imposition of deficiency VAT on the withdrawal of the aforesaid refined sugar processed from *"A"* sugar, *"D"* sugar or *"E"* sugar allocation by the SRA.

The Regional Director, upon the recommendation of the concerned RDO having jurisdiction over the Sugar Refinery/Mill, may assign a Revenue Officer to be present during the withdrawal of refined sugar from the premises of the refinery/mill to ensure compliance with the requirements of this Section. However, for taxpayers under the jurisdiction of the LTS, the Revenue Officer assigned on premise (ROOP) by the EXTA Head shall monitor and ensure compliance thereof.

In all cases where ownership of refined sugar is transferred and the transfer does not qualify for the exemption from payment of advance VAT, no refined sugar shall be released without the presentation of the *Certificate of Advance Payment of VAT* (Annex "E") duly issued by the BIR together with proof of payments, photo copies of which shall be retained on file by the seller/transferor and be made available for tax audit purposes.

**Sec. 6.** ***Proof of Advance Payment.*** – The concerned RDO/LTS, through EXTA, or LTDO having jurisdiction over the physical location of the 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.*** – If a duly accredited and registered agricultural 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 RDO, LTS, through EXTA, or LTDO having jurisdiction over the Sugar Refinery/Mill. In securing such authorization, the cooperative 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 refined sugar has not been bidded, sold or otherwise transferred in ownership, at anytime prior to the removal from the refinery/mill, to a trader or another entity; 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 cooperative.

For exempt withdrawals under Sec. 4 hereof, 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 *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 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 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 production and 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 and other agricultural products which are the main raw materials for the production of 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 RDO having jurisdiction over the Sugar Refinery/Mill. However, if the owner-seller of the refined sugar is under the jurisdiction of the LTS or LTDO, the remittance shall only be done through the EFPS or made to an 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, and CBW Food Processors/Exporters and Others.*** - 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 RDO/LTS, through EXTA, or LTDO having jurisdiction over the said Sugar Refinery/Mill which issues the *Certificate of Advance Payment of VAT* (Annex "E") or *Authorization Allowing the Release of Refined Sugar* (Annex "A") 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 owner of the refined sugar;
b) Number of bags of refined sugar released; and
c) Amount of advance VAT paid.

In case of refined sugar processed from *"A"*, *"D"* or *"E"* sugar classification, every proprietor or operator of Sugar Refinery/Mill shall likewise submit to the RDO/LTS, through EXTA, or LTDO having jurisdiction over the said refinery/mill which issues the *Authorization Allowing the Release of Refined Sugar* (Annex "B") not later than the 10th day following the end of the month, a *Production Report* (Annex "G") on the processing of the *"A"*, *"D"* or *"E"* sugar which shall reflect the following information:

a) Name, Address, TIN and RDO number of the owner of the *"A"*, *"D"* or *"E"* sugar classification processed;
b) Volume of *"A"*, *"D"* or *"E"* sugar classification processed;
c) Number of bags of refined sugar produced; and
d) *Quedan* for the *"A"*, *"D"* or *"E"* sugar processed.

The Sugar Refinery/Mill shall also 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") to the RDO/LTS, through EXTA, or LTDO having jurisdiction over the Sugar Refinery/Mill which issues the *Certificate of Advance Payment of VAT* (Annex "E") or *Authorization Allowing the Release of Refined Sugar* (Annex "A") not later than the 10th day following the end of the monthwhich shall reflect the following information:

a) Name, Address, TIN and RDO number of the owner of the refined sugar;
*b)* Number of bags of refined sugar tolled/produced;
c) Amount of advance VAT paid/collected;
d) Total base price subjected to advance payment of VAT; and
e) Total base price not subjected to advance payment of VAT.

Likewise, every duly accredited and registered agricultural cooperative of good standing shall submit to the RDO/LTS, through EXTA, or LTDO where it is registered a *List of Buyers of Sugar* (Annex "H"), together with a copy of the *Certificate of Advance Payment of VAT* (Annex "E") made by each of the respective buyer appearing in the list, not later than the 10th day following the end of the month with the following information:

a) Name, Address, TIN and RDO number of the buyer of sugar;
b) Number of bags of refined sugar sold/LKG;
c) Amount of sales; and
d) Amount of Advance VAT paid, if any.

Any exporter of refined sugar processed from the raw *"A"*, *"D"* or *"E"* sugar classification shall submit an *Information Return* (Annex "I") to the RDO/LTS, through EXTA, or LTDO having jurisdiction over the exporter, copy furnished the RDO/LTS or LTDO having jurisdiction over the Sugar Refinery/Mill which processed the raw *"A"*, *"D"* or *"E"* sugar into refined sugar, not later than the 10th day following the end of the month, which shall reflect the following information:

a) Volume of acquisition of refined sugar processed from raw *"A"*, *"D"* or *"E"* sugar;
b) Volume of exportation of refined sugar processed from raw *"A"*, *"D" or "E"* sugar;
c) Amount of sales; and
d) Name, address/location of importer/buyer.

All CBW food processors/exporters to whom the refined sugar processed from *"A"*, *"D"* or *"E"* sugar is transferred by its owner, and all export food processors which acquired the refined sugar processed from *"A"*, *"D"* or *"E"* sugar are required to liquidate their exports in the same manner as prescribed by the Bureau of Customs (BOC) and the SRA for duty- and VAT-free importation. Furthermore, advance VAT shall be collected from the transferee of the *"A"*, *"D"* or *"E"* sugar *quedan* not liquidated in accordance with the provisions mandated by the BOC and the SRA.

**Sec. 13.** ***Issuance of Tax Credit Certificate 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.

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.

Advance VAT payments which remained unutilized for more than one (1) year prior to the effectivity of these regulations may, at the option of the seller/owner of the refined sugar be the subject of application for TCC to be filed within two (2) years from the date of filing of the last quarterly VAT return where the unutilized advance VAT payments appeared, or if filed out of time, from the last day prescribed by law for filing the return.

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 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.

**Sec. 15.** ***Repealing Clause.*** **–** The provisions of all internal revenue issuances 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)
**JOSE MARIO C. BUÑAG**
Commissioner of Internal Revenue