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

Date: March 31, 2015

REVENUE REGULATIONS NO. 6-2015

SUBJECT : Implementing Regulations Imposing Advance Business Tax (Value Added Tax or Percentage Tax) Payments on Sugar 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, 111 (B) and 116 all of the National Internal Revenue Code of 1997 (Tax Code), these regulations are hereby promulgated to consolidate and amend provisions of RR No. 13-2013 and RR 4-2015.

SECTION 2. Definition of Terms. — For purposes of these regulations the following terms shall have the following meaning:

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.

(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°. Raw 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.

(c) **Sugar Refinery/Mill** refers to entity, natural or juridical, engaged in the business or milling sugar cane into raw or in the refining of raw sugar.

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

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

(e) **Raw Cane Sugar** —refers to sugar produced by simple process of conversion of sugar cane without a need of any of mechanical or similar device. For this purpose, raw cane sugar refers only to muscovado sugar. Thus, only raw cane sugar such as muscovado are exempt from VAT under Section 109

Centrifugal process of producing sugar is not in itself a simple process. Therefore, any type of sugar produced therefrom are not exempt from VAT such as raw sugar and refined sugar."

(f) **Sugar** – refers to sugar other than raw cane sugar.

SECTION 3. Requirement to Pay in Advance Business Taxes, such as VAT or Percentage Tax on Sale of Raw and Refined Sugar- In general, the business tax (VAT or Percentage Tax) on the sale of raw and refined sugar, shall be paid in advance by the owner/seller before any warehouse receipt or quedans are issued, or before the sugar is withdrawn from any sugar refinery/mill.

Upon representation by the SRA that raw sugar classified as "A" and covered by quedans clearly designating the raw sugar to be classified as "A" as solely exclusively intended for the export to the United States of America (USA) in compliance and fulfilment of our sugar export quota obligation to the USA, and to lessen the administrative burden of processing refunds,

no advance VAT shall be collected. Provided, however, that if upon audit it shall be discovered that the said raw sugar was:

(a) Not actually exported to the USA as evidenced by sales invoices, official receipts, airway bills, bills of lawding, inward letters of credit, landing certificates, export declaration and other commercial documents, and

(b) No receipts of payments in acceptable foreign currency or its equivalent in goods or services and/or it was not accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP), the deficiency VAT together with the surcharge and interest thereon computed from when it should have been due and paid for shall be collected. Provided, further, that the exemption herein shall not include liability from the advance three percent (3%) percentage tax for non-VAT taxpayer.

With regard to the Raw Sugar "D" and "E", these types of raw sugar are subject to advance payment of VAT subject to refund upon showing of compliance with requirements VAT zero-rating, to wit:

- sale and actual shipment of raw sugar from the Philippines to a foreign country/territory as evidence by sales invoices, official receipts, airway bills, bills of lading, inward letters of credit, landing certificates, export declaration and other commercial documents; and

- payments 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).

Moreover, any person whose sales or receipts are exempt under Section 109 (1) (V) of the NIRC from the payment of VAT and who is not a VAT-registered person shall pay an advance percentage tax equivalent to THREE PERCENT (3%) of the gross monthly sales or receipts of sugar, whether raw or refined, and or whatever classification it might be.

SECTION 4. Basis for Determining the Amount of Advance Tax Payment. —

a) *Base Price.* — The amount of advance VAT payment shall be determined by applying the VAT rate of twelve percent (12%) on the applicable base price of ONE THOUSAND FOUR HUNDRED PESOS (P1,400.00) per 50 kg. bag for refined sugar, and ONE THOUSAND PESOS (P1,000.00) per 50 kg. bag for all other types of sugar.

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, depending on the prevailing market price of sugar.

c) Advance Percentage *Tax* - For taxpayers exempted under Section 109 (1) (V) of the NIRC from the payment of VAT who are not a VAT-registered person, the amount of advance Percentage Tax shall be determined by applying the Percentage Tax rate equivalent to THREE PERCENT (3%) of the gross sales or receipts; provided that cooperatives shall be exempt from the THREE PERCENT (3%) gross sales or receipts.

SECTION 5. Exemption from the Payment of the Advance VAT. — The following withdrawals shall be exempt from the payment of the advance VAT:

(a) **Withdrawal of Raw Cane Sugar.** — Sale of raw cane sugar (muscovado) is always exempt from VAT irrespective of the seller and buyer pursuant to Sec. 109 (A) of the Tax Code.

(b) **Withdrawal of Sugar by Duly Accredited and Registered Agricultural Cooperative of Good Standing.** — In the event the 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), the withdrawal of sugar for sale to members is not subject to advance VAT. The same shall also not be subject to advance Percentage Tax. Provided, however withdrawal of sugar for sale to non-members is subject to payment of Advance VAT or percentage tax, if the agricultural cooperatives is not the producer of sugar. Provided, however, any quedan or evidence of ownership showing the name of the cooperative together with another entity, natural or juridical, shall not be considered sales by an agricultural but by the other entity named therein, and are therefore not covered herein and are subject to advance business tax required under this Regulation.

A cooperative must be a holder of a valid, current and subsisting Certificate of Tax Exemption which is issued in accordance with Revenue Memorandum Order No. 76-2010 dated September 27, 2010.

(c) **Withdrawal of Sugar by Duly Accredited and Registered Agricultural Cooperative which is sold to another Agricultural cooperative.** — If the owner of the sugar as reflected in the quedan is an agricultural cooperative, the sale of the resulting sugar to another agricultural cooperative is not subject to VAT pursuant to Sec. 109 (L) of the Tax Code. It shall also not be subject to advance Percentage Tax.

Thus, if the seller-cooperative is not an agricultural producer but merely purchases the sugar cane or the raw cane sugar from planter, whether members or non-members, or transfer the raw cane sugar to cooperative through assignment, its sale of the resulting sugar to another agricultural cooperative shall be subject to VAT or percentage tax and its withdrawal from the Sugar Refinery/Mill will only be allowed upon payment of the advance VAT or percentage tax in the RDO having jurisdiction over the place of business of the cooperative.

Any quedan or evidence of ownership issued to a cooperative together with another entity, natural or juridical, shall not be considered sale by the cooperative, but the entity named, therein, and are therefore not exempted from the advance business taxes required under this Regulation.

SECTION 6. Withdrawal or Transfer of Ownership of Sugar. — The proprietor of a Sugar Refinery/Mill shall not allow the issuance of quedan/warehouse receipts or other evidence of ownership or allow any withdrawal of sugar from its premises without proof of payment of

advance VAT/Percentage Taxes required in these Regulations. Any person making the withdrawal or transfer shall submit proof of such payment or exemption from payment thereof.

SECTION 7. Credit for Advance Tax Payments. — In addition to the input tax credits allowed under Section 110 of the Code, the amount of advance payment of VAT made by sellers of sugar under these regulations shall be allowed as credit against the output tax based on the actual gross selling price of sugar. The *Certificate of Advance Payment of the VAT/Percentage Tax* and a copy of the payment form shall be attached to the Monthly /Quarterly return to support the claim for credit of advance VAT/Percentage Tax payment.

SECTION 8. Unutilized Advance Tax Payment. —

The advance tax payments made by the seller/owner of sugar 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.

Unutilized advance Tax 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/percentage tax of the succeeding month/quarter/year.

Issuance of TCC shall be limited to the unutilized advance tax payments 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.

SECTION 9. 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 Tax Code, as amended.

SECTION 10. Repealing Clause. — Any rules and regulations or parts thereof inconsistent with the provisions of these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 11. Issuance of Revenue Memorandum Circular – The BIR shall issue a separate Revenue memorandum Circular setting out the procedure and the forms required for the implementation of this regulation.

SECTION 12. Effectivity. —The provisions of these Regulations shall take effect on May 1, 2015.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

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