REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF FINANCE

BUREAU OF INTERNAL REVENUE

Quezon City

Date: May 22, 2015

REVENUE REGULATIONS NO. 8-2015

SUBJECT : **Amending Revenue Regulations No. 6-2015 on the Definition of Raw Cane Sugar for Purposes of the Imposition of Advance Business Tax (Value-Added Tax or Percentage Tax) and for Other Related Purposes**

TO : **All Internal Revenue Officials, Employees and Others Concerned**

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), as amended, **these Regulations are hereby promulgated to amend Revenue Regulations (RR) 6-2015 on the definition of Raw Cane Sugar for purposes of the imposition of the advance business tax (Value-Added Tax or Percentage Tax) and for other related purposes**.

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

(a) Raw Cane Sugar — the natural sugar extracted from sugarcane through simple mechanical process by pressing for the juice; boiled to crystallize; filtered using centrifuge to separate these crystals, and dried, resulting to crystallize brown sugar (brown color due to natural molasses content present in sugar cane): *Provided*, that it shall refer to raw cane sugar produced from conducting only one (1) stage of filtering and centrifugal without any other further process applied thereto, such as but not limited to washing, bleaching, etc.: *Provided further*, that its color is greater than 800 ICU and that its content of sucrose by weight in dry state corresponds to a polarimeter reading of less than 99.5°.

The above definition includes *muscovado* which has standard specifications as produced, namely: Powder Class A – polarization of 86° minimum; Powder Class B – polarization of 77° minimum; and, Lump – polarization of 57° minimum.

Thus, only those falling under the above-definition of Raw Cane Sugar, including *muscovado*, are exempt from VAT, or from Percentage Tax, pursuant to Section 109 (1)(A) of the Tax Code.

The Sugar Regulatory Authority represents that it collects on a biweekly basis composite samples from mills for routine quality tests. For further verification that the products produced by mills conform to the definition contained herein, the SRA shall provide the BIR with a copy of the results of said test showing the polarimeter and color reading of the Raw Cane Sugar produced, within 15 days from the end of the calendar month. The SRA shall also insure that they have in place rules and regulations requiring the "RAW CANE SUGAR" be clearly placed on quedans issued for products falling under this definition.

(b) Sugar — refers to sugar other than Raw Cane Sugar as defined in the preceding paragraph. This includes sugar whose content of sucrose by weight, in the dry state corresponds to a polarimeter reading of 99.5° and above and/or whose color is 800 ICU or less.

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.

(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 Associations.

SECTION 3. Requirements to Pay in Advance Business Taxes, such as VAT or Percentage Tax on Sale of Sugar. – In general, the business tax (VAT or Percentage Tax) on the sale of 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.

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.

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 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 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, <u>including muscovado</u>**, is always exempt from VAT irrespective of the seller and buyer pursuant to Sec. 109 (1) (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, that withdrawal of Sugar for sale to non-members is subject to payment of advance VAT or percentage tax if the agricultural cooperative is not the producer of Sugar. Provided, however, that 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 cooperative but by the other entity named therein, and are, therefore, not covered herein and are subject to advance business tax required under this Regulations.

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 from planter, whether members or non-members, or transfer the Sugar to cooperative through assignment, its sale of the resulting 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 or Percentage Tax in the RDO having jurisdiction over the place of business of the cooperative.

Any *quedan* or evidence of ownership issued to 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 Regulations.

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 upon application duly filed with the BIR by the owner/seller 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 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 procedures and the forms required for the implementation of this Regulations.

SECTION 12. Effectivity. —The provisions of these Regulations shall take effect immediately upon its 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