REVENUE REGULATIONS NO. 6-2007 issued on May 9, 2007 prescribes the consolidated regulations on advance Value-Added Tax (VAT) on the sale of refined sugar, amending and/or revoking all revenue issuances issued to this effect, and for other related purposes.

Refined sugar refers to sugar whose content of sucrose by weight, in 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:

a. product of a refining process;
b. products of a Sugar Refinery, or
c. product of a production line of a sugar mill accredited by the Bureau of Internal Revenue (BIR) to be producing and/or capable of producing sugar with polarimeter reading of 99.5° and above, and for which the quedan issued as verified by the Sugar Regulatory Administration (SRA) identifies the produced sugar to be of a polarimeter reading of 99.5° and above.

Sugar produced from sugar production lines accredited by the BIR 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.

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:

a. “A” is raw sugar which is intended for export to the United States Market
b. “B” is raw sugar which is intended for the domestic Market
c. “C” is raw sugar which is reserved for but have not yet matured for release to the Domestic Market
d. “D” is raw sugar which is intended for export to the World Market
e. “E” is reclassified “D” sugar for sale to Customs Bonded Warehouse (CBW) Food Processors/Exporters

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

The advance VAT on the sale of refined sugar provided in the Regulations 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 from the concerned RDO/Large Taxpayers Service (LTS), through Excise Tax Area (EXTA), or Large Taxpayers District Office (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 Duty Remitted in order to confirm and/or verify that the requirements in the Regulations 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 in the Regulations, the advance VAT on the sale of refined sugar shall be paid by the buyer to the BIR through the Authorized Agent Bank
(AAB), whether manually or through Electronic Filing and Payment System (EFPS) of the BIR, 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) in order to confirm and/or verify that the requirements of in the Regulations are complied with.

The following withdrawals shall be exempt from the payment of 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 (AARRS) and other documents prescribed in the Regulations, 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.

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 AARRS and other documents prescribed in the Regulations, 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 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 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 AARRS and other documents prescribed in the Regulations 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 the Regulations.

Except in cases of exempt withdrawals, 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 in the Regulations. Any person making the withdrawal or transfer shall submit proof of such payment as prescribed in the Regulations.

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, what shall be submitted to the sugar refinery/mill is the evidence of ownership of the refined sugar, the AARRS and the Sworn Statement 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 AARRS and the Sworn Statement provided in the 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. 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.

In all cases where ownership of refined sugar is transferred and the transfer does not qualify for exemption from payment of advance VAT, no refined sugar shall be released
without the presentation of the *Certificate of Advance Payment of VAT* (CAPVAT) 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.

The concerned RDO/LTS, through EXTA, or LTDO having jurisdiction over the physical location of the sugar refinery/mill shall issue a CAPVAT as required in the Regulations. This certificate shall serve as the authority of the sugar refinery/mill to release the refined sugar described 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.

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 AARRS 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* 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, the sugar refinery/mill shall require the submission of the AARRS the duly accomplished *Sworn Statement* specifying the transferee, and the quedan.

The following shall be the basis in 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 that will be computed shall be adjusted when deemed necessary by the Commissioner of Internal Revenue (CIR), upon consultation with the Chairman of the SRA.

In addition to the input tax credits allowed under Sec. 110 of the Tax 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 CAPVAT issued shall be attached to the Monthly VAT declaration/Quarterly VAT return to support the claim for credit of advance VAT payment.

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 4% 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.

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.

Every proprietor or operator of a sugar refinery/mill with production line accredited by the BIR 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 to the RDO/LTS, through EXTA, or LTDO having jurisdiction over the said sugar refinery/mill which issues the CAPVAT or AARRS 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 AARRS not later than the 10th day following the end of the month, a Production Report 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 to the RDO/LTS, through EXTA, or LTDO having jurisdiction over the sugar refinery/mill which issues the CAPVAT or AARRS not later than the 10th day following the end of the month which 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/collection;

d. Total base price subjected to advance payment of VAT; and

e. Total base price not subjected to advance payment of VAT.

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, together with a copy of the CAPVAT 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 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 queden not liquidated in accordance with the provisions mandated by the BOC and the SRA.

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 Tax Credit Certificate (TCC) upon application duly filed with the BIR by the seller/owner within 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 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 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.