REVENUE REGULATIONS NO. 13-2008 issued on October 6, 2008 consolidates regulations on advance Value-Added Tax (VAT) on the sale of refined sugar and amends and/or revokes all revenue issuances issued to this effect and for other related purposes.

The Regulations prescribe the updated policies and procedures for the advance payment of VAT on the sale of refined sugar, including those made by a duly accredited and registered agricultural cooperative of good standing as well as the policies and procedures for the recognition of classification of sugar and sugar products. It also provides for a monitoring system in the processing of raw sugar into refined sugar and the withdrawal thereof from the sugar refineries/mills.

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:

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 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 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 Food Processors/Exporters operating Customs Bonded Warehouse (CBW) or to an enterprise located within the special processing export zone.

For this purpose, the BIR shall require all sugar refineries/mills to submit to the Regional Director (RD)/RDO where the mill site is physically located a Weekly Production Report which corresponds to the Weekly Report on Raw and Refined Sugar (SRA SMS form no. 1 and 2) required by the 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 (LTS).

The BIR 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. The ROOMs shall be provided by the BIR Office where the sugar central is registered.

The advance VAT on the sale of refined sugar 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, the owner/seller shall file a Declaration for Advance Payment on Refined Sugar to the RD/RDO having jurisdiction over the place where the sugar mill is physically located and shall submit the following attachments:

a. Listing/Abstract of official Warehouse Receipt Quedan in soft and hard copy; and
b. 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 in order to confirm and/or verify that the requirements of Section 3 of the Regulations 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 Section 4 of the Regulations, 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), 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. Before the issuance of Certificate of Advance Payment of VAT, the owner/seller shall file an application to the RD/RDO having jurisdiction over the sugar mill and shall submit the following attachments:

a. Listing/Abstract of official Warehouse Receipt Quedan in soft and hard copy; and
b. 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) in order to confirm and/or verify that the requirements of Section 3 of the Regulations are complied with.

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. Upon presentation of the Authorization Allowing the Release of Refined Sugar and other documents prescribed in Section 5 of the Regulations, the Sugar Refinery/Mill shall release the same but only after notifying the 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 Section 109 (A) of the Tax Code, as amended. 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.

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.

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 Section 109 (L) of the Tax Code. The buyer-cooperative shall file an application as prescribed under Section 4 (a) of the Regulations. Upon presentation of the Authorization Allowing the Release of Refined Sugar and other documents prescribed in Section 5 of the Regulations, 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, 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.

The proprietor of a Sugar Refinery/Mill shall not allow any withdrawal of refined sugar from its premises without the payment of advance VAT. Any person making the withdrawal or transfer shall submit proof of such payment.

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, which shall be issued by the RD/RDO having jurisdiction of the place where the sugar central or mill is physically located after submission of the following documents:

a. Sworn Statement;
b. Listing/Abstract of Official Warehouse Receipt Quedan (in soft and hard copies); and
c. Weekly Production Report (in soft and hard copy) prior to withdrawal

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.

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 (TCC) by the payor pursuant to Section 204 of the Tax Code.

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. 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 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 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 Revenue Regulations (RR) No. 20-2001, submit to the concerned RDO a Sworn Statement to the effect that:

a. The cooperative-owner of the refined sugar is an agricultural producer as defined in the Regulations; 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, the duly accomplished
Sworn Statement specifying therein the transferee, and the name of the owner of the sugar as reflected in the quedan.

The following are the 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 ₱850.00 per 50 kg. bag for refined sugar produced by a Sugar Refinery, and ₱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 shall be adjusted when deemed necessary by the Commissioner, upon consultation with the Chairman of the SRA.

In addition to the Input Tax credits allowed under Section 110 of the Tax Code, as amended, the amount of advance VAT payments made by sellers of refined sugar under the 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 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.

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”.

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 LTS or Large Taxpayers District Office (LTDO), the remittance shall only be done through 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 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 cooperatives shall submit to the RD/RDO on or before September 15 of every year the list of their members as received by the 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 a monthly Information Return to the RDO having jurisdiction over the cooperative on or before the 15th day of the following month. The Information Return 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:

a. Failed to submit the List of Buyers;

b. Who submitted the list of buyers but which buyers were discovered to have invalid Taxpayer Identification Number (TIN);

c. 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 the supply of any incorrect information to any of its filed application, or declaration, shall constitute a basis for the mandatory audit 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.

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.

A person who fails to file, keep or supply a statement, list, or information required on the date prescribed therefore shall pay, upon notice and demand by the BIR, an administrative penalty of One Thousand Pesos (₱1,000.00) 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 (₱25,000.00).

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, shall be subject to the criminal penalty under the relevant provisions
of the Tax Code, as amended, upon conviction of the offender. The imposition of
any of the penalties under the said Code 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.

The corresponding administrative penalty shall be imposed on every violation
of the provisions of the 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 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.