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

Bureau of Internal Revenue Ruling

Section 109, RA 8424, as amended	BIR RR. No. 4-2015	#333-2016

Person to Contact: Chief, Law Division
Tel Nos. 926-55-36 / 927-09-63

June 29, 2016
Date

LOS RICOS COMPANIA CORP.
E2102-B/C, 21st Floor Philippine Stock Exchange Center
Exchange Road, Ortigas, Pasig City

Attention: ***HARRY G. LIU***
Chairman

Gentlemen:

This refers to your letter dated March 5, 2013, requesting for a clarification on whether **cocosugar** is covered by the exemption in Section 109(1)(A) as implemented by Section 4.109-1(B) of Revenue Regulation No. 16-2005, as amended.

Documents submitted show that Los Ricos Compania Corp., with Taxpayers Identification No. [redacted] is a domestic corporation registered with the Securities and Exchange Commission (SEC) under SEC Registration No. [redacted] that the purposes for which it is formed are:

> That the primary purpose of this corporation is to engage in the business of trading Cocosugar and its by-products, domestic and/or export.
>
> That the secondary purpose of this corporation is to engage in the business of trading goods such as garments and accessories and household goods on a wholesale and commission basis.

Section 109 of the National Internal Revenue Code of 1997, as amended (Tax Code), provides:

> "SEC. 109. *Exempt Transactions.* — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:
>
> "(A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or

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> producing foods for human consumption; and breeding stock and genetic materials therefor.
>
> "Products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. **Polished and/or husked rice, corn grits, raw cane sugar and molasses, ordinary salt, and copra shall be considered in their original state;**" (Emphasis supplied.)

The provision above quoted defines the term "original state" in two ways. First, in the first sentence, that the term includes an article which is in its original state, unprocessed and not a finished product or a by-product of a raw material. This includes materials that have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Thus, what would be outside of the scope of the term "simple process" is the kind of physical or chemical process which would alter the exterior texture or form or inner substance of a product in such a manner as to prepare it for special use to which it could not have been put in its original form or condition.

The second definition, a definition by enumeration, gives a list of products which are ***considered*** *per se*, as in its original state.

As represented in the flow chart attached to the letter of Los Ricos Compania Corp, coconut sap or nectar undergoes the following processes for the production and extraction of cocosugar:

1. Coconut Sap or Nectar
2. Sap is boiled
3. Sap solidifies when cool
4. Coconut sugar is dried and strained

From the foregoing, it is obvious that the process undergone by coconut sap or nectar to produce coconut sugar is not one that may be considered within the purview of the line "simple process of preparation or preservation for the market". The product produced by the above process is already a finished product.

Neither does cocosugar belong to the second definition. The list does not include cocosugar. The only kind of sugar that is exempt from VAT is raw cane sugar in the form of muscovado sugar as clarified in Revenue Regulations No. 4-2015[1]. The rule of *exclusio unius est exclusio alterius* may be applied in this case. In conjunction to this, exemption from taxation is not favored and should be construed *strictissimi juris* against

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[1] "Amending Further Section 2 of Revenue Regulations No. 13-08, as amended by Revenue Regulations No. 13-2013, Relative to the Definition of Raw Sugar and Raw Cane Sugar for Value-Added Tax Purposes" issued on March [illegible]

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the taxpayer and liberally in favor of the taxing authority.[2] Since the list does not include cocosugar, we cannot construe that it belongs to the list.

It must also be understood that the exemption in Section 109(1)(A) is not given to a specific taxpayer but to the nature of the transaction involved. Accordingly, and provided that the subject agricultural and marine products are in their original state and are food for human consumption, the sale of the above products as qualified are considered VAT exempt.

From the foregoing, we hereby rule that the sale of cocosugar is not among those which are exempted under Section 109(1)(A); and that no blanket tax exemption for any entity is allowed by the said provision. Thus, the change of registered tax-type of Los Ricos Compania Corp. to VAT-EXEMPT cannot be allowed. Thus, your request is hereby denied.

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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[2] Philippine Petroleum Corporation vs. Municipality of Pililla, Rizal, 198 SCRA 82; Caltex Philippines Inc., vs. Commission on Audit, et al., 208 SCRA 726; Commissioner of Internal Revenue vs. Guerrero, 21 SCRA 180; Manila Electric Company vs. Vera, 67 SCRA 351.