IMPLEMENTING SECTION 21 OF REPUBLIC ACT NO. 8479 ENTITLED “AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY, AND FOR OTHER PURPOSES”

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Pursuant to the provisions of Section 244, in relation to Section 245 of the National Internal Revenue Code, these Regulations are hereby promulgated to implement the provisions of Sections 21 and 23, Chapter VII of Republic Act No. 8479, concerning payment by certain Oil Companies of their respective specific taxes through "Reimbursement Certificates" to be issued by the Department of Energy (DOE).

SECTION 1. Scope — Sections 21 and 23, Chapter VII of Republic Act No. 8479, approved on February 10, 1998, provides:

> "SEC. 21. OPSF Balance — All outstanding claims against OPSF as of the effectivity of this Act, subject to the existing auditing rules and regulations of the Commission on Audit (COA), shall be considered as accounts payable of the National Government. For this purpose, and any law to the contrary notwithstanding, the reimbursement certificates issued by the DOE covering the said outstanding claims shall be honored and accepted by the Bureau of Customs and the Bureau of Internal Revenue as payment to the extent of ten percent (10%) per payment of the tariff duties and specific taxes due from the creditor-claimants against the OPSF until such claims are settled in full: Provided, That the reimbursement certificates shall not be transferable."
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> "SEC. 23. Implementing Rules and Regulations — The DOE, in coordination with the Board, the DENR, DFA, Department of Labor and Employment (DOLE), Department of Health (DOH), DOF, DTI, National Economic and Development Authority (NEDA) and TLRC, shall formulate and issue the necessary implementing rules and regulations within sixty (60) days after the effectivity of this Act."

SECTION 2. Definition of Terms — For purposes to this Regulations, the following words and phrases shall have the meaning indicated below:

(a) OPSF — Refers to the Oil Price Stabilization Fund established under Presidential Decree No. 1956, as amended, in order to stabilize the domestic prices of petroleum products under the regulated oil industry environment.

(b) DOE — Refers to the Department of Energy.

(c) COA — Refers to the Commission on Audit.

(d) Reimbursement Certificate — Refers to an accountable form issued by DOE to reimburse qualified oil companies for the additional cost of crude oil and imported petroleum products due to increase in world crude oil prices and fluctuations in foreign exchange rates which may be used to pay specific taxes due the government.

(e) Reimbursement Certificate Debit Memo — Refers to an accountable form issued by DOE authorizing the BIR to utilize Reimbursement Certificate in payment of specific taxes.

(f) Tax Debit Memo — Refers to an accountable form issued to a taxpayer by the BIR as a written notice that his tax liability has been charged against his Reimbursement Certificate and serves as a form of payment when

presented to a duly accredited agent bank or duly deputized collection agent.

(g) Oil Company — Refers to a company which purchases crude oil and other petroleum products and is authorized to draw claims against the OPSF.

(h) Collection Agency — Refers to either the Bureau of Internal Revenue or the Bureau of Customs which collects specific taxes or customs duties and to which the Reimbursement Certificates shall be presented in payment of such taxes and duties.

SECTION 3. Reimbursement Certificate — The "Reimbursement Certificate" duly issued by the Department of Energy in settlement of the outstanding claims of the concerned Oil Companies against the OPSF, pursuant to Section 21, Chapter VII of Republic Act No. 8479, may be used in payment of the Oil Company's liability for specific taxes, subject to the following rules:

(a) The "Reimbursement Certificate" has been duly issued by the Department of Energy and duly approved by the Commission on Audit.

(b) The Certificate may be accepted by the Bureau of Internal Revenue only in payment of specific taxes on the Oil Company's local production and removal of petroleum products subject to specific taxes pursuant to Section 148 of the National Internal Revenue Code, as amended by Republic Act No. 8424, and a Reimbursement Certificate Debit Memo has been issued therefor by the DOE prior to the actual utilization. In no case may such Reimbursement Certificate be used in payment of the Oil Company's other tax liabilities.

(c) Utilization of each Reimbursement Certificate shall be made with only one collection agency. In case a Certificate has been partially utilized in payment of excise tax with the BIR or duty with BOC, the subsequent application(s) for payment of unutilized balance thereof shall be accepted only by the collection agency where the said certificate has been initially applied.

(d) Payment by an Oil Company's specific taxes through the aforesaid "Reimbursement Certificate" shall be treated as indirect or a constructive collection of tax money; hence, shall be credited to the account of the Bureau of Internal Revenue as actual collection of tax revenues.

(e) Payment by an Oil Company of its liability for specific taxes through the aforesaid "Reimbursement Certificate" shall not exceed an amount equivalent to ten percent (10%), per payment, based on the amount of the specific tax due on its removal from place of production of such petroleum products.

(f) The concerned Oil Company shall secure from the Large Taxpayers Division (LTD), BIR National Office, or the concerned Revenue District Office which has jurisdiction over its principal place of business an Authority to Accept Payment for Excise Tax (ATAPET) for the total amount of specific tax due inclusive of the amount to be paid through the aforementioned "Reimbursement Certificate."

(g) The Oil Company concerned shall present to the Collection Programs Division, BIR National Office, the (1) original copies of its "Reimbursement Certificate" duly approved by COA and the "Reimbursement Certificate Debit Memo" duly issued by DOE; and (2) all copies of the ATAPET duly issued by LTD or its Home RDO, wherever applicable, for processing, leading to issuance by the Collection Programs Division of the corresponding Tax Debit Memo (TDM) evidencing application of the amount shown in the said "Reimbursement Certificate" in payment of the said Oil Company's liability for specific tax as shown in the aforesaid ATAPET.

(h) The "Reimbursement Certificate" herein provided shall not be transferable by the Oil Company in whose name the same has been duly issued by the DOE.

SECTION 4. Report on Utilization of Reimbursement Certificates — The Commissioner of Internal Revenue shall

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submit to the Bureau of Treasury a monthly utilization report of Reimbursement Certificates duly applied against specific tax liabilities of oil companies on or before the 5th day of the month immediately following the month of utilization. This report shall serve as the basis of the Bureau of Treasury in recognizing BIR's actual excise tax collections from this mode of payment.

SECTION 5. Transitory Provision — For a more effective implementation and monitoring of the utilization of Reimbursement Certificates in payment of specific taxes, DOE shall provide the Commissioner of Internal Revenue a duly certified list of Reimbursement Certificates issued to oil companies as of the effectivity of these Regulations containing, among others, the following information:

(a) Name, TIN, and address of the oil company;
(b) Reimbursement Certificate Number;
(c) Date of Issue of Certificate; and
(d) Amount of Authorized OPSF Reimbursement reflected in the certificate.

The said list shall be submitted in duplicate to the Commissioner of Internal Revenue not later than July 15, 1998. Thereafter, the Secretary of Energy shall provide the Commissioner of Internal Revenue a list of all Reimbursement Certificates that will be subsequently issued after the effectivity of these Regulations.

SECTION 6. Repealing Clause — All existing rulings, orders, circulars, or any other issuance or portion thereof which is inconsistent with the provisions of these Regulations are hereby amended, revoked or modified accordingly.

SECTION 7. Effectivity Clause — These Regulations shall take effect fifteen (15) days after its publication in any newspaper of general circulation

Adopted: 09 June 1998

(SGD.) SALVADOR M. ENRIQUEZ, JR.
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RECOMMENDING APPROVAL:

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