

P&A ジャパンデスクメールマガジン

2019年10月号 Maternity leave 中の調整給与の取り扱いについて

2019年10月9日にBIRよりMaternity leave中の調整給与の税務上の取り扱いについての公表が行われました（RMC No. 105-2019）。

1. Maternity leave 中の給与について

基本的に、Maternity leave中の給与は、会社を通じてSSSから支払われますが、SSSの負担額は該当する従業員の給与満額とまらない場合があります。この場合、会社は、この差額を給与として支給することが必要です。

例えば、月給が3万ペソの従業員に対して、SSSからの支給額が月2万ペソだった場合には、差額の1万ペソを会社が支給します。

これまで、当該調整給与の税務上の取り扱いは、これまでDOLEの出していたDepartment advisory No.1に沿って、課税所得と考えられていました。

2. 本ルールにおける取り扱い

本ルールにおいて、BIRは当該調整給与を所得税の対象としない（非課税所得として取り扱う）旨を明確にしました。

そのため、Maternity leave中の従業員に対する給与は、全額が所得税の対象とならず、所得税控除前の金額を従業員本人に支給することが求められます。

3. 適用時期

本規則が承認後即座に適用開始のため、当該ルールは本メールマガジン発行時点で有効です。

4. 対応が求められる事項

上記に記載した通り、本ルールが発表される前は、DOLEが発表していたルールに沿って、課税所得として取り扱い、所得税控除後の給与を従業員に支給し、源泉した所得税を納税することが一般的でした。そのため当ルールが出たタイミングで、その直後の所得税の申告・納税時に課税所得として取り扱い、納税を行ってしまった場合には、過払いになってしまっているため、還付もしくは将来の源泉税との相殺を行うことが求められます。

還付申請を行う場合には、フィリピンにおいては非常に煩雑かつ時間のかかる手続きが予想されます。そのため、納税をしまっている場合には、どのようなアクションをとるのかを慎重に判断することを推奨します。

この記事は2019年10月現在の情報を基に執筆されたものであり、内容の正確性については細心の注意を払っておりますが、保証をするものではありません。最新情報及び具体的な相談に関してはお問い合わせください。

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会社紹介

P&A グラントソントン ジャパンデスク（担当：松下、川原田、今枝）

現在約 300 社の日系企業へサービスを提供。現地経営者、フィリピンマーケットへ進出を検討している日本企業の皆様へより、業務に深く関わったサービスを提供するべく日本窓口 1 名を含む計 4 名の日本人が対応しています。

P&A グラントソントン

1988 年 Benjamin R. Punongbayan と Jose G. Araullo によって設立。現在は、Chairman & CEO である Ma. Victoria Espano が指揮の元フィリピン TOP 4 規模の会計会社として、主にフィリピン企業の顧客を始め、外国企業のフィリピン進出増加と共に、日系企業へのサービスも提供。2019 年現在パートナー 21 名、社員 850 名の体制で構成されており、インターナショナルファームの一つである、Grant Thornton（グラントソントン）と提携し、そのノウハウを活かしながら、クオリティの高いサービスを、大手顧客から、ミッドサイズ、外国企業、スタートアップ企業まで幅広い顧客層へ提供しています。

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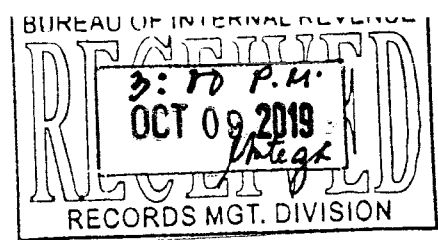
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City



September 3, 2019

REVENUE MEMORANDUM CIRCULAR NO. 105-2019

SUBJECT : Clarifies the Proper Tax Treatment of Maternity Leave Benefits Under Republic Act No. 11210 Otherwise Known as the “105-Day Expanded Maternity Leave Law”

TO : All Internal Revenue Officials, Employees and Others Concerned

This Circular is hereby issued in order to clarify the proper tax treatment of salary differential to be paid by the employer in favor of female workers in the private sector, pursuant to the pertinent provisions of Republic Act (RA) No. 11210, otherwise known as the “105-day Expanded Maternity Leave Law”.

The provisions of Sec. 5 (c) of RA No. 11210 prescribes, among others that:

“Workers availing of the maternity leave period and benefits must receive their full pay. Employers from the private sector shall be responsible for payment of the salary differential between the actual cash benefits received from the SSS by the covered female workers and their average weekly or regular wages, for the duration of the maternity leave, xxx” (underscoring supplied)

and the pertinent provisions of Section 2 under the Implementing Rules and Regulations (IRR) of the said Act jointly issued by the Civil Service Commission (CSC), Department of Labor and Employment (DOLE) and Social Security System (SSS) prescribe that:

“Employed female workers shall receive full pay which consists of (i) SSS maternity benefit computed based on their average daily salary credit and (ii) salary differential to be paid by the employer, if any;”

Under the same IRR, the term “full pay” is defined under Section 1.j. of Rule II as:

“j. Full pay” refers to actual remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours not lower than the wage rate fixed by the Regional Tripartite Wages and Productivity Board (RTWPB) including allowances provided for under existing company policy of collective bargaining agreement, if any. Full pay in the public, on the other hand, includes the basic salary and allowances as may be provided under existing guidelines.”

The SSS issued Circular No. 2019-009 to All Employers and Female Members with the subject, “Guidelines on the Payment of the Maternity Benefit Effective March 11, 2019 prescribing Section 4 on salary differential, as follows:

“Employers from the private sector shall pay for the difference between the full salary and the actual cash benefits received from the SSS. xxx”

Likewise, the DOLE issued its own Department Advisory No. 01, “Guidelines on the Computation of Salary Differential of Female Workers During Her Maternity Leave and its Criteria for

Exemption Pursuant to Republic Act No. 11210 and its Implementing Rules and Regulations”, prescribing the following introductory provisions under Item II. Computation of Salary Differential”

“The employer shall pay the salary differential between the full salary of female worker during her maternity leave and the actual cash benefits received from the Social Security System (SSS), xxx”

On the other hand, Section 2.78.1(B)(1)(e) under Revenue Regulations (RR)-No. 2-98, as amended, prescribes the following remuneration received by an employee as an incident of employment that is exempt from withholding tax:

“(e) Payments of benefits made under the Social Security System Act of 1954, as amended;”

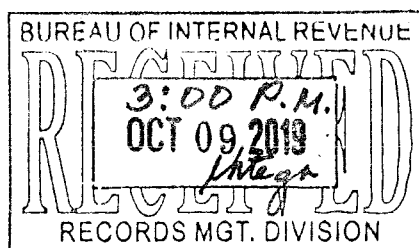
Accordingly, for purposes of determining whether salary differential is taxable or not, there is a need to resolve whether or not “salary differential” is considered as a benefit under the SSS Act of 1954, as amended.

Prior to these recently issued SSS law, Sec. 14-A of RA No. 8282, which amends RA No. 1161, otherwise known as the Social Security Law issued on June 18, 1954, a female member is entitled to a daily maternity benefit equivalent to one hundred percent (100%) of her average daily salary credit for sixty (60) days or seventy-eight (78) days in case of caesarean delivery. The term “average daily salary credit” is defined under Sec. 8 of the same law as the result obtained by dividing the sum of the six (6) highest monthly salary credit in the twelve-month period immediately preceding the semester of contingency by one hundred eighty (180).

However, based on the cited provisions of the new law, the implementing joint IRR and the respective issuances of SSS and DOLE, the maternity benefit of the female worker has been expanded from the previous 100% of the average daily salary credit to a full pay or salary which includes now the salary differential as its component, aside from the added duration of the maternity leave. Accordingly, it is therefore clear that salary differential is considered as a benefit.

Further, since the provisions of Section 2.78.1(B)(1)(e) under RR No. 2-98 do not provide any qualification in granting tax exemption on payments of benefits under the SSS law, the salary differential is exempt from income and withholding taxes.

All internal revenue officers, employees, and others concerned are hereby enjoined to give this Circular as wide a publicity as possible.



Caesar R. Dulay
CAESAR R. DULAY
Commissioner of Internal Revenue
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