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

I. PURPOSE

This Guidelines is issued to guide all concerned on the computation of
salary differential of female workers during maternity leave and its criteria for
exemption pursuant to Republic Act No. 11210 otherwise known as the “105-
Day Expanded Maternity Leave Law” and its Implementing Rules and
Regulations.

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) which shall be computed as follows:

1. Compute the amount of full pay:

   \[
   \text{Full pay}^{[1]} = \text{monthly salary}^{[2][3]} \times \text{maternity period in months}^{[4]}
   \]

2. Ascertain the employee’s premium contribution share for SSS,
   Philippine Health Insurance Corporation (PhilHealth), and Home
   Development Mutual Fund (Pag-IBIG) covering the maternity period.

3. Determine the amount of SSS maternity leave benefit of the female
   worker based on the prescribed formula and computation by the SSS.

4. Deduct from the amount of full pay the total amount of employee’s
   premium contribution share and SSS maternity leave benefit.

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1 Full pay, as defined in Section 1(j), Rule II of the IRR of RA 11210, 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 or collective bargaining agreement, if any.

2 Equivalent monthly rate may be computed as follows: (daily rate x factor) / 12.

3 If female worker is not uniformly paid whereby daily rate or monthly rate cannot be determined, the average
   of her monthly salary for the last twelve-month period shall be adopted.

4 As provided in Article 15 of the Civil Code of the Philippines, a month shall be understood as thirty (30) days.
To illustrate, below is a sample computation:

<table>
<thead>
<tr>
<th>Monthly salary</th>
<th>Expanded maternity leave (105 days or 3.5 months)</th>
<th>Salary differential[^5]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Php14,006.75</td>
<td>Php49,023.63</td>
<td>Php2,984.07</td>
</tr>
<tr>
<td>Php31,300.00</td>
<td>Php109,550.00</td>
<td>Php4,656.31</td>
</tr>
</tbody>
</table>

III. COVERAGE FROM INCOME TAX OF THE SALARY DIFFERENTIAL

The amount of salary differential shall be treated as taxable income of the female worker subject to the rules and regulations of the Bureau of Internal Revenue.

IV. EFFECT ON THE COMPUTATION OF THIRTEENTH (13TH) MONTH PAY

The salary differential shall be included as part of the basic salary for purposes of computation of the 13th month pay of the rank-and-file employee.

V. CRITERIA FOR EXEMPTION OF PAYMENT OF SALARY DIFFERENTIAL

Establishments in the private sector mentioned in Section 5, Rule VI of the Implementing Rules and Regulations of RA 11210, may be exempted from paying the salary differential by submitting within the first semester of every calendar year, in duplicate copies, at the DOLE Regional/Provincial/Field/Satellite Office where the applicant principally operates, all of the following requirements:

a. DOLE-prescribed Application Form,
b. Copy of Certificate of Registration issued by the Department of Trade and Industry or the Securities and Exchange Commission or the Cooperative Development Authority, as the case may be, and
c. Copy of the latest Business Permit issued by the Local Government Unit.

Additional requirements, as applicable, for the following:

I. Distressed establishments

[^5] Other deductions in salary such as loans, may be deducted from the salary differential as may be agreed upon by the employer and the female worker.
a. Audited Financial Statement/s\(^6\) duly received by the Bureau of Internal Revenue and/or the Securities Exchange Commission or the Cooperative Development Authority or
b. Certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation.

II. Retail/service establishments and other enterprises regularly employing not more than ten (10) workers
- Owner or President’s Affidavit as to the number of employees for the twelve-month period preceding the date of application.

III. Micro enterprises whose total assets are not more than Three Million Pesos (Php3,000,000.00)
- Barangay Micro Business Enterprise Certification.

IV. Establishments already providing similar or more than the benefits provided in RA 11210 and its IRR
a. Certified True Copy of existing Collective Bargaining Agreement or policy; or
b. Employer and Workers Representative’s Certification of existing company practice.

The Certificate of Exemption shall be valid for one year from the date of issuance thereof. However, if an establishment was issued already a Certificate of Exemption by the Regional Tripartite Wage and Productivity Board (RTWPB) from payment of minimum wage for a certain year, the same Certificate shall also carry with it an exemption from payment of salary differential for the same year and no separate application shall be required in this case.

VI. APPLICATION PROCESS

The application for exemption from payment of salary differential shall be filed in duplicate copies at the DOLE Regional/Provincial/Field/Satellite Office where the applicant principally operates. No application for exemption shall be accepted unless all the requirements in the preceding Section are complied with.

The DOLE Regional Director or his/her authorized representative shall conduct an inspection, if necessary, to verify the number of workers, nature of business, and other relevant information, within five (5) working days from receipt of the application.

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\(^6\) Where the exemption being sought is for a particular project/branch/division, the consolidated Audited Financial Statements of the establishment shall be used as basis for determining its distressed condition. A corporation/cooperative shall submit their Audited Financial Statement for the last accounting period immediately preceding the application, while a sole proprietorship or partnership shall submit their Audited Financial Statement for the last two (2) full accounting periods immediately preceding the application.
The DOLE Regional EML Committee shall evaluate all applications for exemption and/or results of inspection within five (5) working days. It shall submit its recommendation to the DOLE Regional Director or his/her authorized representative for approval within five (5) working days from receipt thereof.

VII. REVOCATION OF CERTIFICATE OF EXEMPTION

The DOLE Regional Director or his/her duly authorized representative shall revoke the Certificate of Exemption issued to the establishment after due process, based on any of the following grounds:

a. Misrepresentation of facts in the application;
b. Submission of falsified or tampered application or supporting documents;
c. Non-compliance with labor standards and working conditions;
e. Collecting any fees not authorized by law and other applicable rules and regulations; or

The DOLE Regional Director or his/her duly authorized representative may conduct a clarificatory hearing within seven (7) working days from receipt of complaint. The proceedings shall be summary in nature.

The conduct of hearings shall be terminated within ten (10) working days from the first scheduled clarificatory hearing. The DOLE Regional Director or his/her duly authorized representative shall resolve the case within ten (10) working days from the date of the last hearing. The Order shall be final and not appealable.

Manila, Philippines, 9 July 2019

[Signature]
SILVESTRE H. BELLO III
Secretary
Dept. of Labor & Employment
Office of the Secretary