REVENUE MEMORANDUM CIRCULAR NO. 105-2019 issued on October 9, 2019 clarifies 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 (105-Day Expanded Maternity Leave Law).

The provisions of Sec. 5 (c) of RA No. 11210 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, Department of Labor and Employment (DOLE) and Social Security System (SSS) prescribe 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 SSS by the covered female workers and their average weekly or regular wages, for the duration of the maternity leave.

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, the salary differential is considered as a benefit exempt from the Income and Withholding Taxes.