



BenguetCorp

BENGUET CORPORATION

**EXPANDED MATERNITY LEAVE
(RA 11210)**

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Issued by:

DA MEJIA/RS SONGAYAB

Approved by:

RP MENDOZA / LG FERNANDEZ
Officers-In-Charge

I. PURPOSE

In compliance with Republic Act No. 11210 or also known as “An Act Increasing the Maternity Leave Period,” the Company shall implement the benefit to its female employees to protect and promote the right and welfare of the working women, taking into account their maternal functions and to provide the enabling environment in which their full potential can be achieved. The Expanded Maternity Leave Program will provide them with ample transition time to regain health and overall wellness as well as to assume maternal roles before resuming employment.

II. COVERAGE

This policy shall apply to Benguet Corporation and its subsidiaries.

The Program covers BC female employees who have given birth, or had miscarriage, or emergency termination of pregnancy, regardless of civil or employment status, the legitimacy of the child, or frequency of pregnancy.

III. SCHEDULE OF BENEFITS

The Maternity Leave Benefits is a daily cash allowance granted to female employees/members and shall be paid for a compensable period of:

1. One Hundred Five (105) days for live birth, regardless of the mode of delivery, and an additional fifteen (15) days paid leave if female employee qualifies as solo parent under the applicable provisions of RA 8972; or
2. Sixty (60) days paid leave for miscarriage or emergency termination of pregnancy;
3. The daily maternity benefit is equivalent to one hundred percent (100%) of the female member’s average daily salary credit and shall receive full pay which consists of the (i) SSS maternity benefit computed based on the average daily salary credit, and (ii) salary differential to be paid by the Company, i.e., paying for the difference between the full salary and the actual cash received from the SSS.

IV. IMPLEMENTING GUIDELINES

A. Manner of Enjoyment of the Benefit

1. Enjoyment of maternity leave cannot be deferred but should be availed of either before or after the actual period of delivery in a continuous and uninterrupted manner.
2. The maternity leave can be credited and combinations of prenatal and postnatal leave for as long as it does not exceed one hundred five (105) days, one hundred twenty days, or sixty (60) days, as the case may be. In no case shall postnatal care be less than sixty (60) days.

B. Frequency of the Grant

Maternity leave shall be granted to a qualified employee in every instance of pregnancy, miscarriage, or emergency termination of pregnancy regardless of frequency.

C. Eligibility

1. Employee must have paid at least three (3) SSS monthly contributions in the twelve-month period immediately preceding the semester of childbirth, miscarriage, or emergency termination of pregnancy. In determining the employee's entitlement to the benefit, the SSS shall consider only those contributions paid prior to the semester of contingency; and
2. Employee must have notified her employer of her pregnancy and the expected date of her childbirth, which notice shall be transmitted to the SSS in accordance with the rules and regulations it may provide.

D. Notice Requirement

The notification process for employees and employers shall be governed by the following rules:

1. Employee, upon confirmation of pregnancy, shall immediately inform the Company of such fact and expected date of childbirth;
2. The Company shall in turn, notify the SSS through the prescribed manner;
3. The above rules notwithstanding, the failure of the pregnant employee to notify the employer shall not bar her from receiving the maternity benefits, subject to guidelines to be prescribed by the SSS.

E. Manner of Payment

The SSS shall pay the employee/member her maternity benefit only to the extent of one hundred percent (100%) of her average daily salary credit for one hundred five (105) days, one hundred twenty days, or sixty (60) days, as the case may be; Provided, that:

1. The full payment of maternity benefits shall be advanced by the Company within thirty (30) days from the filing of the maternity leave application subject to the following conditions:
 - a. 50% upon the actual filing of maternity leave application.
 - b. Remaining balance of 50% upon submission of requirements.

2. The SSS shall immediately reimburse the Company of the one hundred percent (100%) of the amount of SSS maternity benefits advanced to the employee by the Company upon receipt of satisfactory proof of such payment and legality thereof.
3. The SSS shall pay directly the female member whose contingency occurred during employment but who is currently unemployed, temporarily laid off, or whose company is on lock-out or experiencing a labor strike.

F. Computation of Salary Differential

The Company shall pay the salary differential between the full salary of female employee during her maternity leave and the actual cash benefits received from the SSS which shall be computed as follows:

1. Compute the amount of full pay:
Full pay = monthly salary x maternity period in months
2. Ascertain the employee's premium contribution share for SSS, PhilHealth and HDMF covering the maternity period.
3. Determine the amount of SSS maternity leave benefit of the female worker based on the prescribed formula and computation of SSS.
4. Deduct from the amount of full pay the total amount of employee's premium contribution share and SSS maternity leave benefit.
5. The amount of salary differential shall be treated as taxable income of the female employee subject to the rules of regulations of BIR.
6. The salary differential shall be included as part of the basic salary for purposes of computation of the 13th month pay of the non-managerial employee.

G. Maternity Leave of Female Employee with Pending Administrative Case.

The maternity leave benefits granted shall be enjoyed by a female employee even if she has a pending administrative case.

H. Optional Allocation to the Child's Father or Alternate Caregiver

An employee entitled to maternity leave benefits may at her option, allocate up to seven (7) days of said benefits to the child's father, whether or not the same is married to the female employee. The allocated benefit granted to the child's father under the Expanded Maternity Leave Law is over and above that which is provided under RA 8187, or the Paternity Leave Act of 1996.

In case of death, absence, or incapacity of the child's father, the qualified employee may allocate to an alternate caregiver who may be any of the following, upon the election of mother, taking into account the best interest of the child:

1. A relative within the fourth degree of consanguinity; or
2. The current partner, regardless of sexual orientation or gender identity, of the female

- employee sharing the same household.
3. The option to allocate maternity leave credits shall not be applicable in case of female employee suffers miscarriage or emergency termination of pregnancy.

I. Rules on Allocation and Notification Requirement.

In case the female employee avails of the option to allocate, the SSS shall pay her the amount of the maternity benefit corresponding to the period not allocated.

1. As applicable, the father or, in his death, absence, or incapacity, the alternate caregiver shall be granted by his employer a leave with pay equivalent to a period from one (1) to (7) days, which may be enjoyed either in a continuous or in an intermittent manner not later than the period of maternity leave availed of.
2. The employee shall notify her employer of her option to allocate with her application for maternity leave. The father or alternate caregiver, as the case may be, shall notify the employer concerned of his her availment of the allocated leave and the inclusive dates therefor. (see "Annex-A").
3. The written notice to the employers shall be required even if the child's father or the alternate caregiver is employed in the public sector.

J. Death or Permanent Incapacity of the Female Employee

In the event the beneficiary employee dies or becomes permanently incapacitated, the balance of her maternity leave benefits, if any, shall accrue to the child's father or to qualified alternate caregiver as provided in the preceding sections subject to the following conditions and compliance to applicable SSS rules:

1. That the maternity leave benefits have not yet been settled, if applicable; and
2. That a certified true copy of the death certificate or abstract is provided to the employers of both the female employee and the child's father or alternate caregiver.
3. That in case the maternity leave benefits of the deceased or permanently incapacitated employee have already been paid to the latter in full, the child's father or alternate caregiver shall be entitled to enjoy the remaining unexpired leave credits of the employee, if there be any but without pay.

K. Prescriptive Period of Filing Maternity Claim

A claim for maternity leave benefit must be filed with the SSS within ten (10) years from the date of delivery, miscarriage or emergency termination of pregnancy.

V. LIMITATIONS

1. The payment of daily SSS maternity benefits shall be a bar to recovery of sickness benefits provided under Republic Act 11199 for the same period which daily maternity benefits have been received;
2. In case of the overlapping of two (2) maternity benefit claims, the employee shall be granted maternity benefits for the two contingencies in a consecutive manner. However,

the amount of the benefit corresponding to the period where there is an overlap shall be deducted from the current maternity benefit claim; and

3. The female employee shall be paid only one maternity benefit regardless of the number of offspring per childbirth/deliver.

IV. ADMINISTRATION

The Human Resources Department shall administer this policy.

V. EFFECTIVITY

This policy shall be observed for child delivery, miscarriage and emergency termination of pregnancy occurring on or after March 11, 2019. The pertinent provisions of RA 11199 shall apply to all contingencies prior to said date.

VI. CHANGE HISTORY

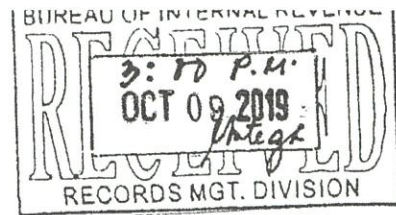
Version No.	Date	Change		Author
		Policy	Particular	
01	12.1.19	Expanded Maternity Leave		DAM / RSS

REVIEW AND POLICY UPDATE

This policy is effective upon approval of President and will be reviewed/updated by CHQ-HR as maybe necessary. ***The Company reserves the right to revise this policy as it deems fit or warranted.***



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;”

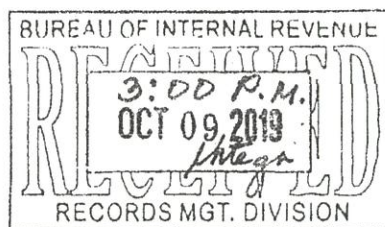
Accordingly, for purposes of determining whether salary differential is taxable or not, there is a need to resolve whether or not “salary differential” is considered as a benefit under the SSS Act of 1954, as amended.

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
029502



BenguetCorp

BENGUET CORPORATION

POLICY ON CHILD LABOR

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Issued by:
[Signature]
DA MEJIA / RS SONGAYAB

Approved by:
[Signature]
RP MENDOZA
EVP
[Signature]
LG FERNANDEZ
President

I. PURPOSE

Republic Act No. 7610 or the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act,” as amended by RA No. 9231¹ declares it a policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, other conditions prejudicial to their development, which includes child labor in its worst forms.

In consonance with the above Act, Benguet Corporation adheres to implement such by prohibiting employment of minors or anyone less than 18 years of age. The Company shall continue to be socially responsible mining company that aims to protect minor children from child labor.

II. COVERAGE

This policy shall apply to Benguet Corporation and its subsidiaries, stakeholders, and those we do business or partner with including suppliers, vendors and service contractors.

III. DEFINITION OF TERMS

1. “Child Labor” refers to any work or economic activity performed by a child (any person under 18 years of age) that subjects him/her to any form of exploitation or is harmful to his/her health, safety or physical, mental or psychological development.
2. “Supplier” refers to any organization or individual in the supply chain of a particular product or commodity.
3. “Contractor” refers to any person or entity, including cooperative, engaged in a legitimate contracting or subcontracting arrangement in accordance with Department Order No. 18-A, providing either services, skilled workers, temporary workers, or a combination of services to a principal under the Service Agreement.

¹ AN ACT PROVIDING FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR AND AFFORDING STRONGER PROTECTION FOR THE WORKING CHILD. AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED, OTHERWISE KNOWN AS THE “SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT”

IV. IMPLEMENTING GUIDELINES

The Company shall strictly enforce this policy to prevent and/or eliminate child labor. Thus, we, as a Company, are committed:

1. To prohibit the hiring of minors which will be implemented company wide;
2. To ensure through Human Resources Department the communication of the "No child labor policy" to our contractors, suppliers, and other partners;
3. To ensure that every contract we enter into has the necessary provisions of said policy;
4. To ensure that no Contractor and Third-Party Service Provider is involved or has a pending case before the Department of Labor and Employment (DOLE) or any judicial tribunal on child labor;
5. To periodically audit Contractors and suppliers to ensure that they are not involved in child labor practice by randomly checking on their employee's profile; and
6. That the Company shall not patronize products or materials produced through child labor.

V. EXCEPTION

Exception to the policy is the DOLE Special Program for employment of students who are below 18 years of age.

VI. ADMINISTRATION

The Human Resource Department shall administer this policy.

VII. EFFECTIVITY

This policy will take effect immediately upon approval.

VIII. CHANGE HISTORY

Version No.	Date	Change		Author
		Policy	Particular	
01	12.1.19	POLICY ON CHILD LABOR		DAM / RSS

REVIEW AND POLICY UPDATE

*This policy is effective upon approval of President/OIC and will be reviewed/updated by CHQ-HR as maybe necessary. **The Company reserves the right to revise and/or revoke this policy as it deems fit or warranted.***