New York State Department of Taxation and Finance

IT-221 Disability Income Exclusion

1985

Name(s) as shown on your return	Social security number

For limits on exclusion, see instructions for line 4

Date you retired (if after December 31, 1976). Also enter this date in the space provided on the Physician's Statement.		**Employer's name (also give payer's name, if other than employer)**
Yourself	Date of retirement	
Spouse	Date of retirement	

Which column(s) to fill in — Use column A to enter your disability income amounts. If you are married and your spouse also received disability income, enter spouse's amounts in column B. If you checked filing status ③, use the same column that you used on Form IT-201 or IT-203. If you checked filing status ④, see instructions.

			Column A	Column B
1. Enter total disability pay you received during 1985			[illegible]	
2. Excludable disability pay *(see instructions)*				
(a) Multiply $100 by the no. of weeks for which your disability payments were at least $100. Enter total			5200.00	
(b) If you received disability payments of less than $100 for any week, enter the total amount you received for all such weeks				
(c) If you received disability payments for less than a week, enter the smaller amount of either the amount you received or the highest exclusion allowable for the period *(see instructions)*				
(d) Add lines (a), (b), and (c). Enter total			5200.00	
3. Add amounts on line 2(d), columns A and B. Enter total		5200.00		
4. Limit on exclusion *(see instructions)*:				
(a) Enter amt. from fed. Form 1040, line 32				
(b) Enter amt. from fed. Form 1040, line 30				
(c) Add lines (a) and (b)				
(d) Amt. used to figure any exclusion decrease	$15,000			
(e) Subtract line 4(d) from line 4(c). If line 4(d) is larger than line 4(c), enter zero		0		
5. Subtract line 4(e) from line 3. If line 4(e) is larger than line 3, **STOP,** you cannot claim any disability income exclusion		5200.00		
6. Enter line 5 amount in column A. This is your disability income exclusion. However, if both spouses received disability pay, see instructions for proration. *(enter here and on Form IT-201, line 30 or Form IT-203, line 30)*				

Statement of permanent and total disability

IF: • You filed a physician's statement for this disability in 1984 and your physician checked Box B on the statement, **AND**

• Due to your continued disabled condition you were unable to engage in any substantial gainful activity in 1985, check this box. ▶ ☐

If you checked this box, you do not have to file another statement for 1985. If you did not check this box, have your physician complete the following statement:

Physician's Statement

I certify that ______________________________
Name of disabled person

was permanently and totally disabled on January 1, 1976, or January 1, 1977, **OR** was permanently and totally disabled on the date he or she retired. Date retired if after December 31, 1976. ▶ ______________

Physician: Check Box A or B below and sign. Check **only** one box.

A. ☐ The disability has lasted, or can be expected to last continuously for at least a year ____________ Physician's signature ____ Date

B. ☐ There is no reasonable probability that the disabled condition will ever improve ____________ Physician's signature ____ Date

Physician's name	Physician's address

Instructions for statement

Taxpayer

Enter in the space provided the date you retired if after December 31, 1976.

Physician

A person is permanently and totally disabled when —

- He or she cannot engage in any substantial gainful activity because of a physical or mental condition; and
- A physician determines that the disability:
  1. has lasted or can be expected to last continuously for at least a year; or
  2. can be expected to lead to death.

General Instructions

Use of Form IT-221

Form IT-221 is used to determine any amount of disability income that could have been excluded from federal adjusted gross income based on Section 105(d) of the Internal Revenue Code as it was in effect prior to January 1, 1984. However, the total of the disability income and pension and annuity income exclusions, cannot exceed $20,000. (If married, the total of each spouse's disability income and pension and annuity income exclusion cannot exceed $20,000.)

Who Can Exclude Disability Income

If you file a New York State resident or nonresident income tax return you may use this form to exclude all or part of your disability pay if you meet all of the following tests:

- You received disability pay.
- You were not yet 65 when your tax year ended.
- You retired on disability and were permanently and totally disabled when you retired. (See instructions below:, *What is Permanent and Total Disability?)* (Also see instructions for *Physician's Statement of Permanent and Total Disability.)*
- On January 1, 1985 you had not yet reached the age when your employer's retirement program would have required you to retire.
- If you are married at the end of 1985 and checked filing status 4, married filing separately on separate forms, you can claim the disability income exclusion only if you and your spouse lived apart during the entire taxable year. If this is the case, write on the spouse's line on page 1, "I did not live with my spouse during any part of the tax year."

If you meet these tests, you can take the exclusion until the earliest of the following dates:

(1) The first day of the tax year in which you turn 65.

(2) The date you reach the age when your employer's retirement program would have required you to retire.

Nonresidents — Include only disability income that is derived from or connected with New York State sources.

What is Permanent and Total Disability

A person is permanently and totally disabled when:

- He or she cannot engage in any substantial gainful activity because of a physicial or mental condition; and
- A physician determines that the condition (1) has lasted or can be expected to last continuously for at least a year; or (2) can be expected to lead to death.

The examples below show substantial gainful activity. In such cases, the disability income exclusion cannot be taken.

Example (1): Bob worked at a hotel as a desk clerk. After retiring on disability, he got a desk clerk job at another hotel. Bob does all the duties of the job and is paid more than the minimum wage. Because Bob does the job on the same terms as the other desk clerks and is paid more than the minimum wage, he is considered engaged in a substantial gainful activity. He cannot take the disability income exclusion.

Example (2): Sue retired on disability as a sales clerk. She now works as a full-time babysitter for more than the minimum wage. Even though Sue does different work, she babysits on ordinary terms for more than the minimum wage. She cannot take the disability income exclusion.

Example (3): Mary, president of the XYZ Corporation, retired on disability because of terminal illness. However, her doctor advised her to work part time. She now works for another company as a part-time manager. She is paid more than the minimum wage and the employer sets her days and hours. Even though Mary's illness is terminal and she works part time, she is considered engaged in a substantial gainful activity. She cannot take the exclusion.

Example (4): Jane retired on disability and now works at an easier job in a full-time competitive work situation. She earns half of what she used to, but is paid more than the minimum wage. She is considered engaged in a substantial gainful activity. She cannot take the exclusion.

The following example shows a person who might not be considered to be engaged in a substantial gainful activity.

Example: John, who retired on disability, took a job with a former employer on a trial basis. The purpose of the job was to see if John could do the work. The trial period lasted for some time during which John was paid at a rate equal to the minimum wage. However, because of John's disability only light duties of a nonproductive make-work nature were given him. Unless the activity is both substantial and gainful, John is not engaged in a substantial gainful activity. The activity was gainful because John was paid at a rate at or above the minimum wage. However, the activity was not substantial because the duties were of a nonproductive, make-work nature. Therefore, these facts do not by themselves, establish John's ability to engage in substantial gainful activity.

Specific Instructions

Lines 2(a) and (b) — You can exclude either your actual weekly disability pay or $100 a week, whichever is less. This table shows how to figure your weekly disability pay.

Pay Period	Your weekly pay is the following part of what you receive each pay period
Weekly	All
Every 2 weeks	Half
Twice a month	Multiply your pay by 24, and divide the result by 52
Each month	Multiply your pay by 12, and divide the result by 52
Other	Divide your yearly pay by 52

Line 2(c) — If you received disability pay for part of a week, follow the steps below.

Step 1. Divide $100 by the number of days a week you normally worked before you retired.

Step 2. Divide the disability pay you got bv the number of days it covered in that week.

Step 3. Compare the Step 1 and Step 2 amounts. The smaller amount is your daily rate. Your exclusion for the week is based on it.

Step 4. Multiply your daily rate by the number of days you received disability pay in the short week. The result is your exclusion for that week.

Step 5. Add your exclusion for that week to your exclusion for any other short weeks. Enter the total on line 2(c).

Disability payments are made for part of a week when one of the following happens after the first day of the taxpayer's normal workweek:

(1) The disability retirement begins

(2) The disability retirement ends because the taxpayer reaches required retirement age.

(3) The taxpayer dies.

Line 4. — Generally, the most a person can exclude is $5,200. This exclusion goes down, dollar for dollar, by any amount over $15,000 on line 4(c). That line shows your federal adjusted gross income before you take the federal deduction for a married couple when both work.

Generally, no exclusion is left if line 4(c) is —

- $20,200 or more, and one person could take the exclusion.
- $25,400 or more, and both husband and wife could take the exclusion.

Line 6 — Enter the amount from line 5 in Column A. This is your disability income exclusion. The total of your disability income exclusion and any pension and annuity income exclusion you claim cannot exceed $20,000. If married, the total of each spouse's disability income and pension and annuity income exclusions cannot exceed $20,000. You cannot claim any unused part of your spouse's exclusions.

If both spouses received disability pay, the amount you entered on line 5 must be prorated based on the amount of excludable disability pay received by each spouse (line 2d) and entered on line 6 in the appropriate column.

Example: You received disability income of $6,000 and your spouse received disability income of $4,000. The amount you entered on line 5 is $6,000. The amount each spouse must enter in the appropriate column on line 6 is figured as follows:

You:

$$\frac{\$\,6{,}000}{\$10{,}000} \times 6{,}000 = \$3{,}600$$

Your spouse:

$$\frac{\$\,4{,}000}{\$10{,}000} \times 6{,}000 = \$2{,}400$$

Physician's Statement of Permanent and Total Disability

If the physician's statement at the bottom of Form IT-221 must be completed, please detach it from the form and have your physician fill it in. Be sure to attach the completed statement to Form IT-221 and file it with your tax return.

If both spouses take the exclusion, a physician's statement must be completed for each spouse.

If you retired on disability before January 1, 1977, the physician's statement must show that you were permanently and totally disabled on January 1, 1976, or January 1, 1977.

If you retired on disability after 1976, the physician's statement must show that you were permanently and totally disabled when you retired.