



Disability Income Exclusion
New York State • City of New York • City of Yonkers

IT-221

Name(s) as shown on your return

Social security number

For limits on exclusion, see instructions on back.

Date you retired (if after December 31, 1976). Also enter this date in the space provided on the Physician's statement below.

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 your spouse's amounts in Column B. If you checked filing status 3, Married filing separate return, see instructions on back.

Table with 3 columns: Line number, Description, Column A, Column B. Rows 1-6 for Excludable disability pay.

Limit on exclusion (see instructions):

Table with 3 columns: Line number, Description, Column A, Column B. Rows 7-11 for Limit on exclusion.

Statement of permanent and total disability

If you filed a physician's statement for this disability for 1984, or you filed a statement for tax years after 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 2002, check this box.

If you checked the box above, you do not have to file another statement for 2002. If you did not check the box above, 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: - has lasted or can be expected to last continuously for at least a year; or - can be expected to lead to death.

# 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 before January 1, 1984. **However, the total of the 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 exclusion 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 and part-year resident 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 *What is permanent and total disability* below. Also see *Physician's statement of permanent and total disability* below.)
- On January 1, **2002**, 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 **2002** and marked filing status  $\textcircled{3}$ , *Married filing separate return*, you can claim the disability income exclusion only if you and your spouse lived apart during the entire tax year. If this is the case, write across the full length of 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 earlier of (1) the first day of the tax year in which you turn 65; or (2) the date you reach the age when your employer's retirement program would have required you to retire.

## 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 physical 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.

Examples (1) through (3) 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): 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 substantial gainful activity.

*Example (4): 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. During the trial period, John was paid at a rate equal to the minimum wage. However, because of John's disability, he was given only light duties of a nonproductive, make-work nature.*

*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 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

### Excludable disability pay

**Lines 2 and 3** — 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 4** — 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 received by 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 on which your exclusion for the week is based.

**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 4.

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; or
- (3) the taxpayer dies.

**Limit on exclusion** — 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 7. That line shows your federal adjusted gross income.

Generally, no exclusion is left if line 7 is:

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

**Line 11** — Enter the amount from line 10 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 exclusion and pension and annuity income exclusion cannot exceed \$20,000. You cannot claim any unused part of your spouse's exclusion.

If both spouses received disability pay, the amount you entered on line 10 must be prorated based on the amount of excludable disability pay received by each spouse (line 5) and entered on line 11 in the appropriate column.

*Example (5): You received disability income of \$6,000 and your spouse received disability income of \$4,000. The amount you entered on line 10 is \$6,000. The amount each spouse must enter in the appropriate column on line 11 is figured as follows:*

You:	Your spouse:
$\frac{\$ 6,000}{\$10,000} \times 6,000 = \$3,600$	$\frac{\$ 4,000}{\$10,000} \times 6,000 = \$2,400$

## 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 complete it. 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.

## Need help?

 **Telephone assistance** is available from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday.

Tax information: 1 800 225-5829

Forms and publications: 1 800 462-8100

Refund status: Access our Web site or call 1 800 443-3200

Electronically filed: 1 800 353-0708

Direct deposit refunds: 1 800 321-3213

Automated service for refund status is available 24 hours a day, 7 days a week.

From areas outside the U.S. and outside Canada: (518) 485-6800

Fax-on-demand forms (available 24 hours a day, 7 days a week): 1 800 748-3676

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8 a.m. to 5:55 p.m., eastern time).



**Internet access:** [www.tax.state.ny.us](http://www.tax.state.ny.us)

Estimated tax: Access our Web site to check your balance and reconcile your account.



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.



**If you need to write,** address your letter to: NYS Tax Department, Taxpayer Contact Center, W A Harriman Campus, Albany NY 12227.