New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Income Tax
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Disability Income Exclusion 1984

Legislation

Chapter 961 of the Laws of]984, signed into law on August 6, 1984, renumbered paragraph (3-b) of section 612(c) to be paragraph (3-c) and added a new paragraph (3-b) to section 612(c) of Article 22 of the New York State Tax Law to allow for a disability income exclusion. The new law applies to disability income received in taxable years beginning after December 31, 1983.

The amount of disability income that can be excluded under New York State Tax Law is the amount provided for under section 105(d) of the Internal Revenue Code as it was in effect prior to January 1, 1984 (Code section 105(d) was repealed by Public Law 98-21 for tax years beginning after 1983). Married couples, filing a joint Federal return but separate New York State returns on one form, must compute a joint exclusion and then prorate it based on the disability income attributable to each spouse.

The maximum disability income exclusion that an individual can claim each year is $5,200. However, the total of the disability income and pension and annuity income exclusions cannot exceed $20,000 each year for each qualified taxpayer.

On New York State nonresident returns, the taxpayer must use disability income from all sources to figure the exclusion to be entered in the federal amount column. These same amounts must be entered in the New York State column(s), if the disability income was solely from New York State sources. However, if only part of the disability income was from New York State sources, the taxpayer must use only New York source disability income in figuring the exclusion to be entered in the New York State column(s).

To exclude all or part of disability income, the taxpayer:

- Had to receive disability pay.
- Was not yet 65 when his tax year ended.
- Retired on disability and was permanently and totally disabled when he retired. (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's statement verifies that the condition has lasted or can be expected to last continuously for at least a year or can be expected to lead to death.)
- On January 1, had not yet reached the age when his employer's retirement program would have required him to retire.

- If married as of December 31 and files separate federal and New York State returns, he must have lived apart from his spouse during the entire taxable year.

If these tests are met, the taxpayer can qualify for the exclusion until the earliest of the following dates:

1. The first day of the tax year in which he became 65.

2. The date he became the age when his employer's retirement program would have required him to retire.

The Administrative Code of the City of New York, Title T, has been correspondingly amended to take into account this new law.